

ARKANSAS CODE OF 1987 ANNOTATED



2013 SUPPLEMENT VOLUME 19B

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Under the Direction and Supervision of the
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TITLE 19
PUBLIC FINANCE
(CHAPTERS 1-5 IN VOLUME 19A)

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SUBCHAPTER 2 — GENERAL REVENUES

SECTION.

19-6-201. General revenues enumerated.

Effective Dates. Acts 2008 (1st Ex. Sess.), No. 4, §§ 2 and 3: Jan. 1, 2009, by their own terms.

Acts 2008 (1st Ex. Sess.), No. 5, §§ 2 and 3: Jan. 1, 2009, by their own terms.

Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 12: Jan. 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly that state and local roads and highways are in need of substantial expansion, maintenance and repair, and that additional funding is necessary to address this need. It is also found and determined that increasing development and exploitation of natural gas resources in the Fayetteville Shale Play and in other areas of this state has significantly increased the burden and wear and tear on state and local roads and highway, further exacerbating the need for maintenance and repair. It is also found and determined that previous surpluses in state revenue have been largely spent to improve public education and educational facilities in this state, as was required by the Constitution as interpreted by the Arkansas Supreme Court in the Lake View case and additional revenues must be generated from other sources to address the needs of our roads and highways. It is further found and determined that due to recent and dramatic increases in the price of gasoline, and the fact that funds for highways are generated from a flat per-gallon tax, the increasing use of more fuel-efficient vehicles has caused a condition in which revenue for roads and highways has not kept pace with the wear and tear caused by vehicular use. It is further found and determined that im-

nance and repair. It is also found and determined that previous surpluses in state revenue have been largely spent to improve public education and educational facilities in this state, as was required by the Constitution as interpreted by the Arkansas Supreme Court in the Lake View case and additional revenues must be generated from other sources to address the needs of our roads and highways. It is further found and determined that due to recent and dramatic increases in the price of gasoline, and the fact that funds for highways are generated from a flat per-gallon tax, the increasing use of more fuel-efficient vehicles has caused a condition in which revenue for roads and highways has not kept pace with the wear and tear caused by vehicular use. It is further found and determined that im-

diate enactment of this bill is necessary to provide adequate time for various administrative agencies of state government to prepare the necessary reporting forms and instructions, to educate taxpayers responsible for paying the additional taxes levied herein, and take other steps necessary for the proper implementation and administration of this act. Therefore, the General Assembly hereby finds and declares that an emergency exists, pursuant to Article V, § 38 of the Arkansas Constitution, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after January 1, 2009.”

Acts 2009, No. 484, § 8: July 1, 2010.

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they cur-

rently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 1058, § 6: July 1, 2012.

Acts 2013, No. 747, § 3: Apr. 4, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act is necessary to ensure that motor vehicles on the road are properly tagged after purchase; and that this act should become effective as soon as possible to promote the safety of the public when operating motor vehicles. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Acts 2013, No. 1411, § 7: July 1, 2014.

19-6-201. General revenues enumerated.

The general revenues of the state, as provided by law, shall consist of the following, as described by their commonly known titles:

(1) Sales taxes, as enacted by Acts 1941, No. 386, known as the “Arkansas Gross Receipts Act of 1941”, and all laws supplemental or amendatory thereto, § 26-52-101 et seq.;

(2) Use taxes as enacted by Acts 1949, No. 487, known as the “Arkansas Compensating Tax Act of 1949”, Acts 1971, No. 222, and all laws supplemental or amendatory thereto, § 26-53-101 et seq.;

(3) Corporation franchise taxes, as enacted by Acts 1979, No. 889, known as the “Arkansas Corporate Franchise Tax Act of 1979”, and all laws amendatory thereto, § 26-54-101 et seq.;

(4) Corporation income taxes, as enacted by Acts 1929, No. 118, known as the “Income Tax Act of 1929”, Acts 1941, No. 129, and all laws amendatory thereto, § 26-51-101 et seq., with the exception of those additional corporate income taxes set aside as special revenue by § 26-51-205(c)(2);

(5) Individual income taxes, as enacted by Acts 1929, No. 118, known as the “Income Tax Act of 1929”, and all laws amendatory thereto, § 26-51-101 et seq.;

(6) Cigarette taxes and permits and other tobacco products taxes and permits, as enacted by Acts 1977, No. 546, known as the “Arkansas Tobacco Products Tax Act of 1977”, and all laws amendatory thereto, § 26-57-201 et seq.;

(7) Escheat of unclaimed property, as enacted by Acts 1999, No. 850, known as the “Unclaimed Property Act”, and all laws amendatory thereto, § 18-28-201 et seq.;

(8) [Repealed.]

(9) Seventy-five percent (75%) of all severance taxes, with the exception of the taxes paid to sever timber and timber products, the severance tax collected on natural gas, and those portions of severance taxes designated as special revenues in § 19-6-301, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(10) Sand, gravel, oil, coal, and other mineral royalties, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(11) Oil and gas leases, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(12) Petroleum trade practices civil penalties, as enacted by Acts 1993, No. 380;

(13) Estate taxes, as enacted by Acts 1941, No. 136, known as the “Estate Tax Law of Arkansas”, and all laws amendatory thereto, §§ 26-59-101 — 26-59-107, 26-59-109 — 26-59-114, 26-59-116 — 26-59-119, 26-59-121, and 26-59-122;

(14) Those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-101 — 26-60-103 and 26-60-105 — 26-60-112;

(15) State Insurance Department Trust Fund moneys in excess of an amount equal to three (3) fiscal year budgets for the State Insurance Department, § 23-61-710(c);

(16) Large truck speeding fines, § 27-50-311;

(17) Employment agency licenses, as enacted by Acts 1975, No. 493, known as the “Arkansas Private Employment Agency Act of 1975”, and all laws amendatory thereto, § 11-11-201 et seq.;

(18) [Repealed.]

(19) Insurance premium taxes, as enacted by Acts 1959, No. 148, known as the “Arkansas Insurance Code”, §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former 23-62-203, 23-62-204, 23-62-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-401 — 23-63-404 [repealed], 23-63-601 — 23-63-604, 23-63-605 — 23-63-609 [repealed], 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835, 23-63-836 [as added by Acts 1983, No. 522], 23-63-837 [as added by Acts 1983, No. 522], 23-63-838 [repealed], 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-64-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-223 — 23-64-227, 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, 23-73-108 [repealed], 23-73-109 [repealed], 23-73-110 — 23-73-116, former 23-74-101 — 23-74-105, 23-74-106 — 23-74-141 [repealed], 23-75-101 — 23-75-116, 23-75-117 [repealed], 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610 and all laws amendatory thereto, with the exception of those premium taxes set aside for the various municipal firemen’s pension and relief funds, for the various police officers’ pension and relief funds, and for the Workers’ Compensation Commission and, with the exception of those additional premium taxes set aside for the Fire Protection Premium Tax Fund, § 26-57-614, and insurance premium taxes from domestic insurers not maintaining a home office in this state as enacted by Acts 1979, No. 908, and all laws amendatory thereto, §§ 23-60-102, 26-57-601 — 26-57-605, and 26-57-607;

(20) Horse racing taxes and fees, including the portion of all moneys wagered, as set out in Acts 1957, No. 46, § 23, as amended, §§ 23-110-406, 23-110-407, 23-110-408 [repealed], 23-110-409, and 23-110-410, the annual license fee, ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, one-third ($\frac{1}{3}$) of the unredeemed pari-mutuel tickets, and the license fees of owners, trainers, jockeys, and jockeys' agents, all as enacted by Acts 1957, No. 46, known as the "Arkansas Horse Racing Law", and all laws amendatory thereto, §§ 23-110-101 — 23-110-104, 23-110-201 — 23-110-205, 23-110-301 — 23-110-307, 23-110-401 — 23-110-403, 23-110-404 [repealed], 23-110-405 — 23-110-407, 23-110-408 [repealed], and 23-110-409 — 23-110-415;

(21) Dog racing taxes and fees, including three percent (3%) of all moneys wagered up to and including one hundred twenty-five million dollars (\$125,000,000) and seven percent (7%) of all moneys wagered in excess of one hundred twenty-five million dollars (\$125,000,000) per calendar year at two hundred forty-four (244) days of racing, one-third ($\frac{1}{3}$) of the odd cents or breaks, the daily operating license fee and fees paid by each greyhound owner and trainer, simulcast taxes of two percent (2%) of all moneys wagered up to and including three hundred fifty thousand dollars (\$350,000), three percent (3%) in excess of three hundred fifty thousand dollars (\$350,000) but less than or equal to five hundred thousand dollars (\$500,000), and six percent (6%) in excess of five hundred thousand dollars (\$500,000), per racing performance and ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, as enacted by Acts 1957, No. 191, known as the "Arkansas Greyhound Racing Law", §§ 23-111-101 — 23-111-104, 23-111-201 — 23-111-205, 23-111-301 — 23-111-308, 23-111-501, 23-111-506, 23-111-507 [repealed], and 23-111-508 — 23-111-514, and all laws amendatory thereto, and the additional four (4) of six (6) days of racing authorized in § 23-111-504;

(22) Alcoholic beverages taxes, permits, licenses, and fees, including the following:

(A) Liquor gallonage taxes and imported wine taxes, as enacted by Acts 1935, No. 109, and all laws amendatory thereto, §§ 3-7-101 — 3-7-110;

(B) Permits and fees for manufacturer and dispensary privileges, as enacted by Acts 1935, No. 108, known as the "Arkansas Alcoholic Control Act", and all laws amendatory thereto, §§ 3-1-101 — 3-1-103, 3-2-101, 3-2-205, 3-3-101 — 3-3-103, 3-3-212, 3-3-401, 3-3-404, 3-3-405, 3-4-101 — 3-4-103, 3-4-201, 3-4-202, 3-4-207 — 3-4-211, 3-4-213, 3-4-214, 3-4-215 [repealed], 3-4-217, 3-4-219, 3-4-220, 3-4-301 — 3-4-303, 3-4-501, 3-4-503, 3-4-601 — 3-4-605, 3-8-301 — 3-8-310, 3-8-311 [repealed], 3-8-313 — 3-8-317, 3-9-237, and 23-12-708;

(C) Nonintoxicating beer and wine taxes, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(D) Brandy taxes and fees, as enacted by Acts 1953, No. 163, known as the "Native Brandy Law", and all laws amendatory thereto, §§ 3-6-101 et seq.;

(E) The additional taxes on native wine and beer and the additional permits fees for retail liquor and beer permits and wholesale liquor and beer permits, as enacted by Acts 1969, No. 271, and all laws amendatory thereto, §§ 3-7-111 and 3-7-506;

(F) The additional taxes on liquor and native wine, as enacted by Acts 1949, No. 282, and all laws amendatory thereto, §§ 3-3-314 and 3-7-111;

(G) The special alcoholic beverage excise taxes, as enacted by Acts 1951, No. 252, and all laws amendatory thereto, §§ 3-7-201 and 3-7-205;

(H) Wholesale and retail permits and fees for the sale of liquor and beer, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(I) Restaurant wine permits, as enacted by Acts 1965, No. 120, and all laws amendatory thereto, §§ 3-9-301 — 3-9-303 and 3-9-305 — 3-9-307;

(J) Permits and taxes on alcoholic beverages sold for on-premises consumption, as enacted by Acts 1969, No. 132, and all laws amendatory thereto, §§ 3-9-201 — 3-9-214, 3-9-221 — 3-9-225, and 3-9-232 — 3-9-237;

(K) Seventy cents (70¢) per gallon of the tax levied upon native wine, permits and fees, as enacted by §§ 3-5-401 — 3-5-412 [repealed]; and

(L) Wine sales on-premise licenses, §§ 3-9-601 — 3-9-606;

(23) Sale of confiscated alcoholic beverages, as enacted by Acts 1947, No. 423, and all laws amendatory thereto, §§ 3-3-301 — 3-3-303, 3-3-304 [repealed], 3-3-308 [repealed], and 3-3-311 — 3-3-314;

(24) Fees collected by the Alcoholic Beverage Control Division of the Department of Finance and Administration for transcripts and fines for violations, as enacted by Acts 1981, No. 790, and all laws amendatory thereto, §§ 3-2-201, 3-2-217, 3-4-213, 3-4-401 — 3-4-406, 3-4-502, 3-5-305, and 3-5-306;

(25) Any fines, penalties, or court costs received in connection with the collection of any of the revenues enumerated in this section;

(26) Any other taxes, fees, license fees, and permits required to be deposited into the State Treasury as provided by law and not otherwise classified;

(27) Savings and loan associations' application fees, annual fees, amendment fees, examination fees, broker's license fees, and other miscellaneous fees, as enacted by Acts 1963, No. 227, §§ 23-37-101 — 23-37-107, 23-37-201, 23-37-202, 23-37-203 [repealed], 23-37-204, 23-37-205 [repealed], 23-37-206 — 23-37-212, 23-37-213 [repealed], 23-37-214, 23-37-301 — 23-37-315, 23-37-401, 23-37-403, 23-37-405, 23-37-406, 23-37-501 — 23-37-512, 23-37-601 — 23-37-603, and 23-37-701 — 23-37-705;

(28) Credit union charter fees, annual supervision fees, and examination fees, as enacted by Acts 1971, No. 132, § 23-35-101 et seq.;

(29) Sale of checks, investigation fees, annual license fees, semianual reports filing fees, and examination fees, as enacted by Acts 1965, No. 124, known as the "Sale of Checks Act", § 23-41-101 et seq. [repealed];

(30) Securities division fees, including loan broker's licenses, mortgage loan company licenses, broker-dealer licenses, agent licenses, investment advisor licenses, agent examination fees, broker-dealer examination fees, statement filing fees, quarterly reports, and proof of exemption filing fees, all as enacted by Acts 1959, No. 254, known as the "Arkansas Securities Act", and all laws amendatory thereto, §§ 23-42-101 — 23-42-110, 23-42-201 — 23-42-212, 23-42-301 — 23-42-308, 23-42-401 — 23-42-405, and 23-42-501 — 23-42-507;

(31) Professional fundraiser and solicitor fees, as enacted by §§ 4-28-401 — 4-28-416;

(32) Unclaimed security deposits, as enacted by Acts 1969, No. 296, as amended by Acts 1975, No. 1007, §§ 27-19-306, 27-19-408, 27-19-501, 27-19-503, 27-19-603, 27-19-609, 27-19-610, 27-19-612, 27-19-619 — 27-19-621, and 27-19-706 — 27-19-708;

(33) Vending devices sales taxes, as enacted in § 26-57-1001 et seq. and that portion of vending device decal fees and penalties provided in the Vending Devices Decal Act of 1997, § 26-57-1201 et seq.;

(34) Anonymous campaign contributions of fifty dollars (\$50.00) or more, as enacted by Acts 1975, No. 788, and all laws amendatory thereto, §§ 7-6-201 — 7-6-210, 7-6-211 [repealed], 7-6-212 [repealed], 7-6-213, and 7-6-214;

(35) Telephonic sellers registration fees, § 4-99-104;

(36) Long-term rental vehicle tax, § 26-63-304;

(37) Arkansas State Highway and Transportation Department miscellaneous fees, permits, penalties, and fines, as enacted by Acts 1955, No. 397, known as the "Arkansas Motor Carrier Act, 1955", and all laws amendatory thereto, § 23-13-201 et seq.;

(38) Radiation protection civil penalties, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, § 20-21-401 et seq.;

(39) That portion of DWI operator's license reinstatement fees, § 5-65-119(a)(3), and that portion of "Underage DUI Law" driver's license reinstatement fees, §§ 5-65-304(d) and 5-65-310(f);

(40) Short-term rental of tangible personal property tax, § 26-63-301;

(41) Excess campaign contributions, as enacted by § 7-6-203;

(42) Retail pet store registration fees, as enacted by § 4-97-104;

(43) Rental vehicle tax, § 26-63-302;

(44) Residential moving tax, § 26-63-303;

(45) Arkansas Quarry Operation, Reclamation, and Safe Closure Act fees, fines, and bond forfeiture amounts, § 15-57-401 et seq.;

(46) [Repealed.]

(47) [Repealed.]

- (48) Arkansas Feed Law of 1997 penalties, § 2-37-113;
- (49) Election, voter registration law, and State Board of Election Commissioners fines, § 7-4-118;
- (50) Remaining funds on dissolution of ballot question committees or legislative question committees, § 7-9-404;
- (51) Uniform Athlete Agents Act registration and renewal fees, § 17-16-109;
- (52) Until July 1, 2011, moneys in excess of one million dollars (\$1,000,000) in the Securities Department Fund from collections of securities agents initial or renewal registration filing fees and securities registration statement filing fees, § 23-42-211(a)(4);
- (53) Human cloning fines, § 20-16-1002;
- (54) The first three dollars (\$3.00) of each unregistered vehicle temporary preprinted paper buyer's tag fee, § 27-14-1705;
- (55) Electronic games of skill privilege fees and all permit or license fees, penalties, and fines received by the Arkansas Racing Commission, § 23-113-604;
- (56) Prohibited employment of relatives civil penalties, § 25-16-1001 et seq.;
- (57) Five percent (5%) of the severance tax collected on natural gas at the rates enacted by § 26-58-111(5);
- (58) Seventy-six and six-tenths percent (76.6%) of all taxes, interest, penalties, and costs on taxes levied on the gross receipts or gross proceeds derived from the sale of food and food ingredients, § 26-52-317(c)(1)(A);
- (59) [Effective until July 1, 2014.] Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer for use directly in the actual manufacturing process, § 26-52-319(a)(3)(A);
- (59) [Effective July 1, 2014.] Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer for use directly in the actual manufacturing process, § 26-52-319(a)(1)(A);
- (60) Seventy-six and six-tenths percent (76.6%) of the taxes, interest, penalties, and costs received on taxes levied on the privilege of storing, using, distributing, or using food and food ingredients, § 26-53-145(c)(1)(A);
- (61) [Effective until July 1, 2014.] Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the sales price of natural gas and electricity purchased by a manufacturer for use directly in the actual manufacturing process, § 26-53-148(a)(3)(A);
- (61) [Effective July 1, 2014.] Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the sales price of natural gas and electricity purchased by a manufacturer for use directly in the actual manufacturing process, § 26-53-148(a)(1)(A);

(62) Seventy-six and six-tenths percent (76.6%) of the excise taxes levied on all dyed distillate special fuel sold, used, or utilized in the state, § 26-56-224(c)(1);

(63) That portion of Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq. — fines and penalties, § 23-13-605;

(64) Charitable bingo and raffle license fees and excise taxes levied as enacted by §§ 23-114-302, 23-114-307, and 23-114-601;

(65) Additional tax on cigarettes and tobacco products other than cigarettes, as enacted by Acts 2009, No. 180, and all laws amendatory thereto, § 26-57-801 et seq.;

(66) Partial-birth abortion civil fines and penalties, as enacted by Acts 2009, No. 196, and all laws amendatory thereto, the Partial-Birth Abortion Ban Act, § 20-16-1201 et seq.;

(67) International student exchange visitor placement organization registration fees, as enacted by Acts 2009, No. 966, and all laws amendatory thereto, the International Student Exchange Visitor Placement Organization Registration Act, § 6-18-1701 et seq.;

(68) The first four million dollars (\$4,000,000) of the eight and one-half cent (8½¢) tax on distillate special fuels levied each fiscal year under § 26-56-201(a)(1)(A)(i);

(69) Certification of tobacco product manufacturers civil penalties, § 26-57-1303(a)(10)(B); and

(70) Sale, distribution, and stamping of tobacco products civil penalties, § 26-57-1306(f)(1).

History. Acts 1973, No. 808, § 7; 1975, No. 863, § 6; 1979, No. 1027, §§ 1, 10; 1983, No. 222, §§ 1, 2; 1985, No. 65, §§ 1, 2; 1985, No. 479, § 14; 1985, No. 888, § 16; A.S.A. 1947, § 13-503.6; Acts 1987, No. 792, §§ 1, 6; 1989, No. 551, § 1; 1993, No. 1072, §§ 1, 2, 16; 1993, No. 1073, § 28; 1995, No. 270, §§ 1, 12; 1997, No. 298, §§ 1, 12; 1999, No. 282, §§ 1, 2; 1999, No. 1152, § 3; 2001, No. 229, §§ 1-4; 2003, No. 28, §§ 1-6; 2005, No. 20, § 1; 2007, No. 182, §§ 17-19; 2007, No. 407, § 1; 2008 (1st Ex. Sess.), No. 4, §§ 2, 3; 2008 (1st Ex. Sess.), No. 5, §§ 2, 3; 2009, No. 484, § 1; 2009, No. 1464, § 1; 2011, No. 1008, § 1; 2011, No. 1058, § 1; 2013, No. 747, § 1; 2013, No. 1393, § 2; 2013, No. 1411, §§ 5, 6.

A.C.R.C. Notes. Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly has determined that the severance tax rate on natural gas should be increased and that there should be different rates of tax for different categories of natural gas.

“(b) Amendment 19 of the Arkansas Constitution required this act to be passed

by at least three-fourths of the members of the Senate and at least three-fourths of the members of the House of Representatives.

“(c) In order to implement the increase in the severance tax rate, the General Assembly has identified the following four categories of natural gas, each as defined in Arkansas Code § 26-58-101:

“(1) High-cost gas;

“(2) Marginal gas;

“(3) New discovery gas; and

“(4) All natural gas that is not defined as high-cost gas, marginal gas, or new discovery gas.

“(d) To increase the severance tax rate, the General Assembly used the method of levying a specific tax rate on each category so that any future legislative enactment that would have the effect of increasing the rate of severance tax on any of those categories of natural gas as defined by § 26-58-101 will also be subject to the three-fourths vote requirement of Amendment 19 of the Arkansas Constitution.”

Amendments. The 2011 amendment by No. 1008 added (65) through (67).

The 2011 amendment by No. 1058 added (68).

The 2013 amendment by No. 747 added “The first three dollars (\$3.00) of each unregistered” to the beginning of (54) and substituted “fee” for “fees.”

The 2013 amendment by No. 1393 added (69) and (70).

The 2013 amendment by No. 1411 substituted “26-52-319(a)(1)(A)” for “26-52-319(a)(3)(A)” in (59); and substituted “26-53-148(a)(1)(A)” for “26-53-148(a)(3)(A)” in (61).

Effective Dates. Acts 2013, No. 1411, § 7: July 1, 2014.

SUBCHAPTER 3 — SPECIAL REVENUES

SECTION.

19-6-301. Special revenues enumerated.

Effective Dates. Acts 2008 (1st Ex. Sess.), No. 4, §§ 4 and 5: Jan. 1, 2009, by their own terms.

Acts 2008 (1st Ex. Sess.), No. 5, §§ 4 and 5: Jan. 1, 2009, by their own terms.

Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 12: Jan. 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly that state and local roads and highways are in need of substantial expansion, maintenance and repair, and that additional funding is necessary to address this need. It is also found and determined that increasing development and exploitation of natural gas resources in the Fayetteville Shale Play and in other areas of this state has significantly increased the burden and wear and tear on state and local roads and highway, further exacerbating the need for maintenance and repair. It is also found and determined that previous surpluses in state revenue have been largely spent to improve public education and educational facilities in this state, as was required by the Constitution as interpreted by the Arkansas Supreme Court in the Lake View case and additional revenues must be generated from other sources to address the needs of our roads and highways. It is further found and determined that due to recent and dramatic increases in the price of gasoline, and the fact that funds for highways are generated from a flat per-gallon tax, the increasing use of more fuel-efficient vehicles has caused a condition in which revenue for roads and highways has not kept pace with the wear and tear caused by vehicular use. It is further found and determined that immediate enactment of this bill is necessary to

provide adequate time for various administrative agencies of state government to prepare the necessary reporting forms and instructions, to educate taxpayers responsible for paying the additional taxes levied herein, and take other steps necessary for the proper implementation and administration of this act. Therefore, the General Assembly hereby finds and declares that an emergency exists, pursuant to Article V, § 38 of the Arkansas Constitution, and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after January 1, 2009.”

Acts 2009, No. 610, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2009 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2009.”

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws

have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 173, § 3: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act provides for the creation of a surcharge upon commercial mobile radio service providers per subject telephone number per month to support the Telecommunications Equipment Fund, and that the optimal time to implement this surcharge is at the beginning of the state’s fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 828, § 11: Oct. 1, 2011. Effective date clause provided: “Sections 1 through 10 of this act are effective on the first day of the calendar quarter following the effective date of this act.”

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly

of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2011, No. 1058, § 6: July 1, 2012.

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

19-6-301. Special revenues enumerated.

The special revenues of the state, its agencies, departments, institutions, commissions, and boards, as provided by law and as required by law to be deposited into the State Treasury, shall consist of the following, as described by their commonly known titles:

(1) The remainder of motor vehicle operator and chauffeur licenses and penalties, as confirmed and enacted by §§ 12-8-301 — 12-8-310, known as the “Department of Arkansas State Police Communications Equipment Leasing Act”, which are not required for debt service requirements that are authorized to be deposited into the State Treasury under §§ 12-8-307 — 12-8-310;

(2) Motor vehicle registration and license fees, as enacted by Acts 1929, No. 65, §§ 26-55-101, 27-14-305, 27-14-601, 27-15-1501 [repealed], 27-64-104, 27-65-101, 27-65-107, 27-65-110, 27-65-112, 27-65-131 — 27-65-133, 27-67-101, 27-67-102, 27-67-201, 27-67-206 — 27-67-208, 27-67-211, 27-67-214, and 27-67-218, and all laws amendatory thereto, Acts 1965, No. 87, § 27-15-4001, Acts 1959, No. 122, § 27-15-2101 [repealed], Acts 1959, No. 189, § 27-15-2003 [repealed], and Acts 1969, No. 36, §§ 27-15-401 — 27-15-406 [repealed];

(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by § 26-56-101 et seq., known as the “Special Motor Fuels Tax Law”, and all laws amendatory thereto, including the:

(A) Eight and one-half cent (8.5¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(i), after the deduction of the first four million dollars (\$4,000,000) each fiscal year under § 26-56-201(g)(1) and one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(ii);

(B) Seven and one-half cent (7.5¢) tax on liquefied gas special motor fuels levied by § 26-56-301(a);

(C) Additional one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(2);

(D) Additional four cent (4¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by § 26-56-502(a);

(E) Additional four cent (4¢) tax on distillate special motor fuels levied by § 26-56-201(d)(1);

(F) Additional five cent (5¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by §§ 26-55-1201(a) and 26-56-601; and

(G) Additional liquefied gas special motor fuels user permit fees levied in § 26-55-1002;

(4) Gasoline taxes, as enacted by the Motor Fuel Tax Law, § 26-55-201 et seq., including the:

(A) Eight and one-half cent (8.5¢) tax on motor fuels levied by § 26-55-205(a);

(B) Additional one cent (1¢) tax on motor fuels levied by § 26-55-205(b);

(C) Additional four cent (4¢) tax on motor fuels levied by § 26-55-1002(a);

(D) Additional five cent (5¢) tax on motor fuels levied by §§ 26-55-1201(a) and 26-56-601; and

(E) Additional total of three cents (3¢) tax on motor fuels levied by § 26-55-1006;

(5) Fireworks licenses, as enacted by Acts 1961, No. 224, and all laws amendatory thereto, §§ 20-22-701 — 20-22-715;

(6) Timberlands taxes, as enacted by Acts 1969, No. 354, known as the “Forest Fire Protection Tax Act of 1969”, and all laws amendatory thereto, § 26-61-101 et seq., state forests and nurseries management

income not deposited into the State Forestry Trust Fund, §§ 15-31-115 and 19-5-927; law enforcement fine collections, §§ 15-31-113 and 15-31-114; and timber management plan fees, § 15-31-111;

(7) Motor vehicle in-transit fees, as enacted by Acts 1935, No. 183, and all laws amendatory thereto, §§ 27-14-1801 — 27-14-1808;

(8) Motor vehicle drive-out licenses, as enacted by Acts 1955, No. 111, §§ 27-14-2101 — 27-14-2105;

(9) Motor vehicle certificates of title and duplicates, noting liens, transfer of registration and duplicate or substitute registration certificates and license plates, § 27-14-602, in excess of and after the amounts required to pay the principal and interest on loans and bonds have been made under the 1995 New Revenue Division Building Act, Acts 1995, No. 725;

(10) Overweight and special permits for vehicles and overlength crane permits, as enacted by Acts 1955, No. 98, and all laws amendatory thereto, §§ 27-35-201 — 27-35-203, 27-35-206 — 27-35-208, and 27-35-210; and, overwidth or overlength mobile home permits, as enacted by Acts 1971, No. 264, and all laws amendatory thereto, § 27-35-211 and § 27-35-301 et seq.;

(11) Motor vehicle title registration fees and the noting of liens fees, as enacted by Acts 1949, No. 142, known as the “Uniform Motor Vehicle Administration, Certificate of Title, and Antitheft Act”, and all laws amendatory thereto, § 27-14-101 et seq., § 27-14-201 et seq., §§ 27-14-301 — 27-14-304, 27-14-306 — 27-14-308, 27-14-310, 27-14-312, 27-14-313, § 27-14-401 et seq., §§ 27-14-602, 27-14-604, 27-14-606, 27-14-701, 27-14-703, 27-14-705, 27-14-707, 27-14-708, 27-14-710 — 27-14-716, 27-14-718 — 27-14-722, 27-14-801 — 27-14-804, 27-14-901 — 27-14-904, 27-14-905 [repealed], 27-14-906 — 27-14-913, § 27-14-1701 et seq., § 27-14-2001 et seq., §§ 27-14-2203 [repealed], 27-14-2204, 27-14-2205, 27-14-2207, 27-14-2210, and 27-14-2211, which are in excess of the amount required by Acts 1961 (1st Ex. Sess.), No. 38, known as the “Arkansas Revenue Department Building Act”, to be cash funds pledged for the principal and interest payments of the Arkansas Revenue Department Building Commission revenue bonds;

(12) Soybean assessments, as enacted by Acts 1971, No. 259, §§ 2-20-401, 2-20-403, 2-20-404, and 2-20-406 — 2-20-409;

(13) Paying patients’ fees, excluding those received from Medicare or Medicaid and the Social Security Administration, or from other sources which cause a decrease in the monthly vendor payment, for services provided by the appropriate Division of Behavioral Health and Division of Developmental Disabilities Services divisions and programs of the Department of Human Services;

(14) Fees received by the Arkansas Crime Information Center for driver’s records and other informational services, as enacted by Acts 1971, No. 286, and all laws amendatory thereto, §§ 12-12-201 — 12-12-203, 12-12-206, 12-12-207, 12-12-209, and 12-12-211 — 12-12-213;

(15) Dog racing taxes derived from all revenues from the pari-mutuel tax of fifteen (15) additional days of dog races authorized by §§ 23-111-502 — 23-111-505, and all laws amendatory thereto;

(16) Dog racing taxes derived from two-thirds ($\frac{2}{3}$) of the net proceeds of three (3) additional days of dog races at each meet, as authorized by § 23-111-503(a)(2), and all laws amendatory thereto;

(17) Aviation sales and use taxes, as enacted by Acts 1967, No. 449, and all laws amendatory thereto, § 27-115-110;

(18) Revenue received from saw timber and timber products severance taxes and twenty-five percent (25%) of all other severance taxes, with the exception of the severance tax collected on natural gas, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(19) Motor fuel tax forms, including books and decals, as enacted by Acts 1967, No. 376, § 26-55-713;

(20) Motor boat registration fees, as enacted by Acts 1959, No. 453, and all laws amendatory thereto, §§ 27-101-101 — 27-101-109, § 27-101-201 et seq., §§ 27-101-301 — 27-101-306, and 27-101-308 — 27-101-312;

(21) Three percent (3%) municipal taxes, which are further identified as the three percent (3%) collection cost of the one percent (1%) gross receipts tax levied by a city having a population of not more than thirty thousand (30,000) persons that has been designated as a model city, as authorized by Acts 1968 (1st Ex. Sess.), No. 4, and all laws amendatory thereto, §§ 26-75-501 — 26-75-507;

(22) Drivers' search fees, as enacted by Acts 1977, No. 465, and all laws amendatory thereto, §§ 27-50-901 — 27-50-903, and 27-50-905 — 27-50-911, Acts 1989, No. 241, §§ 27-23-118(b)(2) and 27-23-118(c)(2);

(23) [Repealed.]

(24) Private career education school licenses and fees, as enacted by Acts 1989, No. 906, and all laws amendatory thereto, §§ 6-51-601 — 6-51-617;

(25) Elevator safety board fees, as enacted by Acts 1963, No. 189, and all laws amendatory thereto, §§ 20-24-101 — 20-24-117, and 20-24-119;

(26) Net proceeds derived from the sale of pine grown on state highway rights-of-way or other highway-related areas, as enacted by Acts 1983, No. 696, § 22-5-101;

(27) Those insurance premium taxes set aside for firemen's and police officers' pension and relief and related purposes, §§ 24-11-301 and 24-11-809, with the exception of those premium taxes set aside for transfer to the State Police Retirement Fund under § 24-6-209(b);

(28) Bank department charter fees, assessments, and examination fees, as enacted by Acts 1913, No. 113, and all laws amendatory thereto, §§ 16-110-406, 23-30-101 [repealed], 23-31-201 — 23-31-205 [repealed], 23-31-212 — 23-31-215 [repealed], 23-32-102 [repealed], former 23-32-201 — 23-32-204, former 23-32-208, former 23-32-210, 23-32-216 [repealed], 23-32-222 [repealed], 23-32-224 [repealed], 23-32-225 [re-

pealed], 23-32-227 [repealed], 23-32-228 [repealed], 23-32-701 [repealed], 23-32-703 — 23-32-705 [repealed], 23-32-710 [repealed], 23-32-713 [repealed], 23-32-716 [repealed], 23-32-803 [repealed], 23-32-905 [repealed], 23-32-1001 [repealed], 23-32-1002 [repealed], 23-32-1006 [repealed], 23-32-1008 [repealed], 23-32-1101 — 23-32-1103 [repealed], 23-32-1106 [repealed], 23-32-1108 — 23-32-1111 [repealed], 23-33-101 — 23-33-103 [repealed], 23-33-105 [repealed], 23-33-106 [repealed], 23-33-201 — 23-33-207 [repealed], 23-33-212 [repealed], 23-33-213 [repealed], 23-33-301 — 23-33-308 [repealed], 23-33-310 [repealed], 23-34-101 [repealed], 23-34-103 [repealed], 23-34-105 [repealed], 23-34-106 [repealed], 23-34-108 [repealed], 23-34-110 [repealed], and 23-34-111 [repealed];

(29) Industrial loan institutions assessments and examination fees, as enacted by Acts 1941, No. 111, §§ 23-36-101 — 23-36-117;

(30) Various asset forfeiture proceeds, §§ 5-64-505(f)(5)(B), 5-64-505(h)(1)(A), and 5-64-505(i);

(31) Fees recovered from ex-offenders on probation or parole from a facility of the Department of Community Correction, as enacted by Acts 1981, No. 70, and all laws amendatory thereto, § 16-93-104;

(32) Liquefied petroleum gas board filing fees, inspection fees, registration fees, permits, and certificates of competency, as enacted by Acts 1965, No. 31, known as the “Liquefied Petroleum Gas Board Act”, and all laws amendatory thereto, §§ 15-75-101 — 15-75-108, 15-75-110, 15-75-201 — 15-75-204, 15-75-205 [repealed], 15-75-206 — 15-75-209, 15-75-301 — 15-75-321, and 15-75-401 — 15-75-405;

(33) Brand registration, sales of state brand books, and fees for transfer of brand titles, as enacted by Acts 1959, No. 179, §§ 2-34-201 — 2-34-212;

(34) Arkansas Livestock and Poultry Commission fees and revenues as enacted by Acts 1981, No. 867, and all laws amendatory thereto, § 2-33-113(a), consisting of:

(A) Income from the livestock spraying program, as enacted by Acts 1969, No. 360, and all laws amendatory thereto, §§ 2-33-207 and 2-33-208;

(B) Poultry and egg grading fees as enacted by Acts 1969, No. 220, known as the “Arkansas Egg Marketing Act of 1969”, and all laws amendatory thereto, §§ 20-58-201 — 20-58-216;

(C) Acts 1965, No. 49, and all laws amendatory thereto, §§ 2-33-301 — 2-33-305, and 2-33-307;

(D) Acts 1975 (Extended Sess., 1976), No. 1216, and all laws amendatory thereto, §§ 2-33-306 and 2-33-307;

(E) Carcass data information and feeder pig and feeder calf grading fees, as enacted by Acts 1973, No. 454, and all laws amendatory thereto, §§ 2-33-201 — 2-33-206;

(F) Livestock and poultry diagnostic service fees, § 2-33-111;

(G) State, county, and district paid admission surcharges, § 2-33-115(a)(3); and

(H) Small animal testing fees, as enacted by Acts 1981, No. 770, and all laws amendatory thereto, § 2-33-112;

(35) Arkansas Rice Research and Promotion Board assessments, § 2-20-507;

(36) Boiler inspection fees, certificates of competency, permits, examination fees, and licenses, as enacted by Acts 1961, No. 494, and all laws amendatory thereto, §§ 20-23-101 — 20-23-105, 20-23-201 — 20-23-203, 20-23-301 — 20-23-313, and 20-23-401 — 20-23-405;

(37) Motor vehicle registration reinstatement fees, § 27-22-104, and motor vehicle insurance reporting penalties, § 27-22-107;

(38) Special motor-driven cycle and bicycle operators' licenses and certificates, as enacted by §§ 27-20-101 — 27-20-116;

(39) Polygraph examiner's examination and license fees, as enacted by Acts 1967, No. 413, known as the "Polygraph Examiners Act", §§ 17-39-101 — 17-39-109 and 17-39-201 — 17-39-214;

(40) Private investigator's application fees, agency fees, and license fees and security guard fines and fees, as enacted by Acts 1977, No. 429, known as the "Private Investigators and Private Security Agencies Act", and all laws amendatory thereto, §§ 17-40-101 — 17-40-104, 17-40-201 — 17-40-209, 17-40-301 — 17-40-317, 17-40-325 — 17-40-329, 17-40-335 — 17-40-340, 17-40-341 [repealed], 17-40-342 — 17-40-344, and 17-40-350 — 17-40-352;

(41) Cosmetology board examination, registration, license, duplicate license, reinstatements, reciprocity, renewal and delinquent licenses and fees, as enacted by Acts 1955, No. 358, known as the "Cosmetology Act", and all laws amendatory thereto, §§ 17-26-101 — 17-26-105, 17-26-201 — 17-26-210, 17-26-301 [repealed], 17-26-302 — 17-26-304, 17-26-305 [repealed], 17-26-306, 17-26-307, 17-26-308 [repealed], 17-26-309 — 17-26-312, 17-26-313 [repealed], 17-26-314 — 17-26-319, 17-26-320 [repealed], 17-26-321, and 17-26-401 — 17-26-415, 17-26-416 [repealed], 17-26-417, and 17-26-418;

(42) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, 22-3-1215 [repealed], and 22-3-1216 — 22-3-1219, and that portion not declared cash funds paid to the Arkansas Development Finance Authority for deposit into the Correction Facilities Privatization Account of the Correction Facilities Construction Fund, § 22-3-1210(c)(1)(A), of the Department of Correction's income from its farm operations, including sale of farm products and livestock, rental of farm properties, and payments from agencies of the state or federal government in connection with the farm operations, as enacted by Acts 1968 (1st Ex. Sess.), No. 50, and all laws amendatory thereto, §§ 12-27-101 — 12-27-105, 12-27-107 — 12-27-109, 12-27-112, 12-27-113, 12-27-115, 12-27-118, 12-27-120, 12-28-102, 12-29-101, former 12-29-102, 12-29-103, 12-29-104, 12-29-107, 12-29-112, 12-29-401, 12-30-301, 12-30-306, 12-30-401, 12-30-403, 12-30-405 — 12-30-407, 12-30-408 [repealed], 16-93-101, 16-93-102, former 16-93-201, 16-93-202 — 16-93-204, 16-93-601, 16-93-610, 16-93-701, 16-93-705, and 25-8-106;

(43) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No.

458, §§ 22-3-1201 — 22-3-1214, 22-3-1215 [repealed], 22-3-1216 — 22-3-1219, of the Department of Correction's sales, or dispositions of articles and products manufactured or produced by prison labor, as enacted by Acts 1967, No. 473, known as the "Prison-Made Goods Act of 1967", §§ 12-30-201 — 12-30-207, 12-30-208 [repealed], and 12-30-209 — 12-30-214;

(44) [Repealed.]

(45) Interest on investments held in the University of Arkansas Endowment Fund, as enacted by Acts 1945, No. 249 [repealed], and all laws amendatory thereto;

(46) Pest control service work examination fees, operators' licenses, and agents' and solicitors' registration fees, as enacted by Acts 1975, No. 488, known as the "Arkansas Pest Control Law", and all laws amendatory thereto, §§ 17-37-101 — 17-37-107, 17-37-201, and 17-37-203 — 17-37-221;

(47) Liming material registration fees, and vendor's licenses and inspection fees, as enacted by Acts 1969, No. 353, known as the "Arkansas Agricultural Liming Materials Act", §§ 2-19-301 — 2-19-308;

(48) Fertilizer registration fees for manufacturers, jobbers, and manipulators of commercial fertilizers and fertilizer inspection fees, as enacted by Acts 1951, No. 106, and all laws amendatory thereto, §§ 2-19-201 — 2-19-210;

(49) Nursery dealers, agents, and salesmen's license fees, as enacted by Acts 1919, No. 683, known as the "Arkansas Nursery Fraud Act of 1919", and all laws amendatory thereto, §§ 2-21-101 — 2-21-113;

(50) Arkansas Feed Law of 1997 inspection fees, and registration and license fees, § 2-37-101 et seq.;

(51) Pesticide registration fees, as enacted by Acts 1975, No. 410, known as the "Arkansas Pesticide Control Act", and all laws amendatory thereto, §§ 2-16-401 — 2-16-419;

(52) Pesticide commercial, noncommercial, private and pilot applicators' license fees, pesticide dealers' license fees, and inspection and permit fees, as enacted by Acts 1975, No. 389, known as the "Arkansas Pesticide Use and Application Act", and all laws amendatory thereto, §§ 20-20-201 — 20-20-225;

(53) Fees for seed inspection and certificate of inspection tags, as enacted by Acts 1931, No. 73, and all laws amendatory thereto, §§ 2-16-206 and 2-18-101 — 2-18-108;

(54) Agricultural products inspection fees and inspectors' licenses, as enacted by Acts 1925, No. 218, known as the "Agricultural Products Grading Act of 1925", §§ 2-20-101 — 2-20-117;

(55) Inspection, treatment, and certification fees for insect pests and diseases, plants, planting seeds, noxious weeds, or other substance, as enacted by Acts 1917, No. 414, known as the "Arkansas Plant Act of 1917", §§ 2-16-201 — 2-16-214, and Acts 1921, No. 519, known as the "Arkansas Emergency Plant Act of 1921", §§ 2-16-301 — 2-16-310;

(56) Annual license fees, application investigation fees, and fines from precious stones and precious metals buyers, as enacted by Acts

1981, No. 87, and all laws amendatory thereto, §§ 17-23-101 — 17-23-104, and 17-23-201 — 17-23-208;

(57) [Repealed.]

(58) Individual sewage disposal systems fees, as enacted by Acts 1977, No. 402, known as the “Arkansas Sewage Disposal Systems Act”, and all laws amendatory thereto, §§ 14-236-101 — 14-236-117;

(59) Hazardous waste transporter, generator, and management facility fees, as enacted by Acts 1980 (1st Ex. Sess.), No. 5 [superseded], and all laws amendatory thereto, and § 8-7-226;

(60) Nuclear planning and response fees collected from each utility in the state which operates one (1) or more nuclear generating facilities, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, §§ 20-21-401 — 20-21-405;

(61) Brine taxes imposed upon all brine produced in the state for the purpose of bromine extraction, as enacted by Acts 1979, No. 759, and all laws amendatory thereto, § 26-58-301;

(62) Oil and Gas Commission fees, including oil and gas assessments, drilling permits, permits for plugging wells, and permits for each salt water well, all as enacted by Acts 1939, No. 105, and all laws amendatory thereto, §§ 15-71-101 — 15-71-112, 15-72-101 — 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 — 15-72-324, and 15-72-401 — 15-72-407, and the portion of taxes levied on salt water used in bromine production, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, § 26-58-111(9);

(63) Arkansas State Game and Fish Commission licenses, fees, tags, permits, and fines, all as authorized by Arkansas Constitution, Amendment 35, annual resident hunting and fishing licenses, §§ 15-42-104 and 15-42-110; all interest earned on Arkansas State Game and Fish Commission funds, § 15-41-110; all fees, compensation, or royalties for mineral leases or permits for lands held in the name of the Arkansas State Game and Fish Commission, § 22-5-809(c)(3); all assessed fines as set out in § 15-41-209; and forty-five percent (45%) of the additional one-eighth of one percent ($\frac{1}{8}$ of 1%) sales and use tax authorized by Arkansas Constitution, Amendment 75;

(64) Plumbers’ licenses, examination fees, permits, and registration fees, as enacted by Acts 1951, No. 200, and all laws amendatory thereto, §§ 17-38-101 — 17-38-103, 17-38-201 — 17-38-205, and 17-38-301 — 17-38-310;

(65) Fees for medical identification tags and bracelets, as enacted by Acts 1965, No. 433, § 20-7-119;

(66) [Repealed.]

(67) Seventy-five percent (75%) of child passenger protection act fines, as enacted by Acts 1983, No. 749, known as the “Child Passenger Protection Act”, §§ 27-34-101 — 27-34-107;

(68) Dairy products licenses, permits, and fees, as enacted by Acts 1941, No. 114, and all laws amendatory thereto, §§ 20-59-201 — 20-59-247;

(69) Department of Health vital statistics fees and other specified fees, as set out in § 20-7-123;

(70) Arkansas Public Service Commission annual assessment fees, as enacted by Acts 1945, No. 40, §§ 23-2-101, 23-2-103 — 23-2-105, 23-2-108, 23-2-109, 23-2-403, 23-2-406, 23-2-407, 23-2-409, 23-2-413, 23-2-418, 23-3-109, and 23-3-110, and Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, 23-2-404 [repealed], 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and all laws amendatory thereto;

(71) Arkansas Public Service Commission miscellaneous fees, as enacted by Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, 23-2-404 [repealed], 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and Acts 1949, No. 262, §§ 23-3-109 and 23-16-101 — 23-16-106, and all laws amendatory thereto;

(72) Board of electrical examiners examination, license, and penalty fees, as enacted by Acts 1979, No. 870, § 17-28-101 et seq., § 17-28-201 et seq., and § 17-28-301 et seq., and Acts 1981, No. 132, and all laws amendatory thereto;

(73) Milk inspection fees, as enacted by Acts 1981, No. 587, and all laws amendatory thereto, §§ 20-59-401 — 20-59-407;

(74) Proceeds from sales of tax-forfeited lands, as enacted by Acts 1929, No. 129, and all laws amendatory thereto, § 26-37-210;

(75) Redemption of tax-forfeited lands and quitclaim deed fees, as enacted by Acts 1891, No. 151, and all laws amendatory thereto, § 26-37-310 et seq.;

(76)(A) Commissioner of State Lands fees, including patent fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(B) Deed fees, as enacted by Acts 1931, No. 245, § 22-5-408;

(C) Donation deed fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(D) Field notes and plats fees, as enacted by Acts 1881, No. 12, §§ 22-5-701 and 22-5-702;

(E) Certificate of donation to forfeited land fees, as enacted by Acts 1883, No. 117, § 21-6-203; and

(F) Those fees as specified in Acts 1983, No. 886, § 21-6-203;

(77) Proceeds from sales of islands, as enacted by Acts 1971, No. 148, §§ 22-6-201 and 22-6-203;

(78) Insurance filing fees, renewal fees, amendment fees, reinstatement fees, agents' licenses, brokers' licenses, solicitors' licenses, examination fees, adjusters' licenses, copies of documents and certificates of

the commissioner, all as enacted by Acts 1959, No. 148, known as the "Arkansas Insurance Code", and all laws amendatory thereto, §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former 23-62-203, 23-62-204, 23-62-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-401 — 23-63-404 [repealed], 23-63-601 — 23-63-604, 23-63-605 — 23-63-609 [repealed], 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835, 23-63-836 [as added by Acts 1983, No. 522], 23-63-837 [as added by Acts 1983, No. 522], 23-63-838 [repealed], 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-64-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-223 — 23-64-227, 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, 23-73-108 [repealed], 23-73-109 [repealed], 23-73-110 — 23-73-116, former 23-74-101 — 23-74-105, 23-74-106 — 23-74-141 [repealed], 23-75-101 — 23-75-116, 23-75-117 [repealed], 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610;

(79) Trademark and service-mark registration and assignment fees, as enacted by Acts 1967, No. 81, §§ 4-71-101 — 4-71-114 [repealed];

(80) Milk laboratory antibiotic drug testing program fees and fines, § 20-59-701 et seq.;

(81) Commercial vehicle temporary registration tag fees, as enacted by Acts 1975, (Extended Sess., 1976), No. 1179, and all laws amendatory thereto, § 27-14-1306;

(82) Incorporation fees of railroads, street interurban, or other transportation companies, express companies, sleeping car companies, and private car companies, as enacted by Acts 1911, No. 87, § 23-11-102;

(83) Filing and recording fees for a charter of educational institutions and for filing and recording a certificate for a change of name or provisions of a charter, as enacted by Acts 1911, No. 375, §§ 6-2-101 — 6-2-105, 6-2-106 [repealed], 6-2-107 — 6-2-109, 6-2-111, and 6-2-112;

(84) Fees for filing articles of incorporation and issuing a certificate of incorporation of nonprofit corporations, filing an application of a foreign corporation for a certificate of authority to conduct affairs in this

state and issuing a certificate of authority, and for other administrative functions, as enacted by Acts 1963, No. 176, known as the "Arkansas Nonprofit Corporation Act", §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-223;

(85) Articles of incorporation filing fees, articles of amendment filing fees, fees for certified copies, other miscellaneous filing fees and certificates, and for receiving service of process on behalf of a corporation, both foreign and domestic, and all other fees, as enacted by Acts 1965, No. 576, known as the "Arkansas Business Corporation Act", § 4-26-101 et seq.;

(86) Fees collected as authorized under Acts 1961, No. 185, as amended, known as the "Uniform Commercial Code", § 4-1-101 et seq.;

(87) Fees collected for filing articles of incorporation for cooperative marketing associations, as enacted by Acts 1921, No. 116, as amended, known as the "Cooperative Marketing Act", §§ 2-2-401 — 2-2-411, and 2-2-413 — 2-2-429;

(88) Fees collected from rural telephone cooperatives, as enacted by Acts 1951, No. 51, as amended, known as the "Rural Telecommunications Cooperative Act", §§ 23-17-201, 23-17-202, 23-17-203 [repealed], 23-17-204 — 23-17-226, 23-17-227 [repealed], 23-17-228 — 23-17-233, 23-17-234 [repealed], and 23-17-235 — 23-17-237;

(89) Annual license fees collected from rural electrification corporations, as enacted by Acts 1937, No. 342, as amended, known as the "Electric Cooperative Corporation Act", §§ 23-18-301 — 23-18-322 and 23-18-329 — 23-18-331;

(90) Annual license fees collected from agricultural cooperative associations, as enacted by Acts 1939, No. 153, as amended, §§ 2-2-101 — 2-2-124;

(91) That portion of driver's license special fees for duplicate and identification licenses, as enacted by Acts 1977, No. 311, and all laws amendatory thereto, §§ 27-16-801, 27-16-805, and 27-16-806(a) and (b);

(92) Fees collected from mutual corporations, excepting insurance companies, having no capital stock for the filing of articles of incorporation, as enacted by Acts 1911, No. 87, § 4-26-1204;

(93) Abstracter's examining licenses and fees, as enacted by Acts 1969, No. 109, as amended, known as the "Abstracters' Licensing Law of 1969", §§ 17-11-101 — 17-11-103, 17-11-301 — 17-11-306, 17-11-320 — 17-11-324, and 17-11-340 — 17-11-343;

(94) Driver education fees, as enacted by Acts 1965, No. 531, §§ 27-18-101, 27-18-102, and 27-18-104 — 27-18-106;

(95) Fees charged by the Veterinary Medical Examining Board for the various examinations, permits, licenses, and certificates issued by the board, as enacted by Acts 1975, No. 650, as amended, §§ 17-101-101 — 17-101-103, 17-101-201 — 17-101-203, and 17-101-301 — 17-101-311;

(96) Receipts from timber severed from state-owned lands and rentals from trespassers on state lands, as enacted by Acts 1931, No. 125, §§ 22-5-602 and 22-5-603;

(97) Annual license fees received from septic tank cleaning businesses, as enacted by Acts 1973, No. 71, §§ 17-45-101 — 17-45-105;

(98) Environmental compatibility and public need certificate initial filing fee, as enacted by Acts 1973, No. 164, and all laws amendatory thereto, §§ 23-18-501 — 23-18-529;

(99) Arkansas Motor Vehicle Commission license fees, as enacted by Acts 1975, No. 388, known as the “Arkansas Motor Vehicle Commission Act”, §§ 23-112-101 — 23-112-103, 23-112-105, 23-112-201 — 23-112-205, 23-112-301 — 23-112-311, 23-112-401 [repealed], 23-112-402 — 23-112-404, 23-112-405 [repealed], 23-112-206, and 23-112-501 — 23-112-509;

(100) Arkansas Public Service Commission inspection fees as authorized by Acts 1971, No. 285, § 8, as amended, §§ 23-15-211, 23-15-214, and 23-15-216, for operating the Pipeline Safety Division;

(101) The additional severance tax levied on oil produced in this state, as enacted by Acts 1977, No. 310, § 4, and all laws amendatory thereto, § 26-58-301;

(102) Arkansas Manufactured Home Commission registration fees and salesperson’s licenses, as enacted by Acts 1977, No. 419, known as the “Arkansas Manufactured Homes Standards Act”, and all laws amendatory thereto, §§ 20-25-101 — 20-25-112;

(103) [Repealed.]

(104) All Arkansas Department of Environmental Quality fees, unless otherwise provided by law, § 8-1-105, landfill operator license fees, § 8-6-909, and that portion of new tire waste tire fees, § 8-9-404;

(105) Interstate fuel user marking fees, fines, and penalties, as enacted by Acts 1979, No. 434, §§ 26-55-708 and 26-55-709, and all laws amendatory thereto;

(106) Motor vehicle title application fees, fines, and penalties, as enacted by Acts 1949, No. 142, § 33, as amended by Acts 1979, No. 439, and Acts 1981, No. 40, and all laws amendatory thereto, § 27-14-705;

(107) Transfers from the Securities Reserve Fund of interest earned on the average daily balance of the State Highway and Transportation Department Fund, including all internal accounts and funds thereof, as enacted by Acts 1979, No. 438, § 27-70-204, and all laws amendatory thereto;

(108) Arkansas Board of Dispensing Opticians examination, license, and registration fees, as enacted by Acts 1981, No. 589, known as the “Ophthalmic Dispensing Act”, and all laws amendatory thereto, §§ 17-89-101 — 17-89-106, 17-89-201 — 17-89-204, 17-89-301 — 17-89-307, 17-89-309, 17-89-310, and 17-89-401 — 17-89-404;

(109) Arkansas State Board of Nursing examination and license fees, as enacted by Acts 1971, No. 432, and all laws amendatory thereto, §§ 17-87-101 — 17-87-105, 17-87-201 — 17-87-204, 17-87-301 — 17-87-309, and 17-87-401;

(110) Social work examination and license fees, as enacted by Acts 1999, No. 1122, known as the “Social Work Licensing Act”, § 17-103-101 et seq., and all laws amendatory thereto;

(111) Brine production assessments as enacted by Acts 1979, No. 937, § 3(d), as amended, § 15-76-306(d);

(112) Amusement attraction permits, as enacted by Acts 1983, No. 837, known as the "Amusement Ride and Amusement Attraction Safety Insurance Act", §§ 23-89-501 — 23-89-508;

(113) Arkansas Beef Council cattle assessments, § 2-35-401 et seq.;

(114) [Repealed.]

(115) Hazardous and toxic materials facility fees, § 12-84-106;

(116) The additional severance tax levied on coal, as enacted by Acts 1983, No. 560, § 26-58-112;

(117) The additional severance tax levied on stone and crushed stone, as enacted by Acts 1983, No. 761, § 26-58-113, and those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105 and 26-60-112;

(118) Five percent (5%) of the gross proceeds collected through set-off procedures from debtors who owe money to the State of Arkansas, as enacted by Acts 1983, No. 372, §§ 26-36-301 — 26-36-320;

(119) The first designated portion of real estate transfer taxes for the continuing education of county and circuit clerks, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105 and 26-60-112;

(120) That portion of driver's license reinstatement fees for the Office of Driver Services of the Revenue Division of the Department of Finance and Administration, § 5-65-119(a)(2);

(121) [Repealed.]

(122) Agricultural consultant license fees, the Agricultural Consultants Licensing Act of 1987, § 17-13-101 et seq.;

(123) Arkansas Public Art Program funds set aside within methods of finance for each new state building or major capital improvement on a state building, §§ 13-8-207 and 13-8-208;

(124) Three percent (3%) of local sales and use taxes, which are further identified as the three percent (3%) collection cost of the local sales and use taxes, imposed by a city under § 26-75-217, a county under § 26-74-214, and a city or county under § 26-82-111;

(125) [Repealed.]

(126) Those portions of vaccination fees imposed at livestock markets, as enacted by Acts 1985, No. 150, and Acts 1985, No. 151, § 2-40-206, and that portion of all fines and penalties resulting from arrests made or citations issued by Arkansas Livestock and Poultry Commission enforcement officers, § 2-33-113(b);

(127) Arkansas Wheat Promotion Board assessments, as enacted by Acts 1985, No. 283, §§ 2-20-601 — 2-20-609;

(128) Driving test examination fees, § 27-16-801(a)(1)(C);

(129) Local exchange carriers access line surcharges and commercial mobile radio service provider telephone number surcharges, § 23-17-119;

(130) Asbestos removal license fees, §§ 20-27-1001 — 20-27-1007;

(131) Mammography accreditation fees, § 20-15-1005;

- (132) Abortion clinic license fees, § 20-9-302;
- (133) Child care facility license fees, § 20-78-223;
- (134) [Repealed.]
- (135) Dog racing taxes derived from the net proceeds of two (2) of the additional six (6) days of dog races, as authorized by § 23-111-504;
- (136) Emergency medical services fees, § 20-13-211;
- (137) Food service establishment and food salvager permits and fees, §§ 20-57-102 and 20-57-201 — 20-57-204;
- (138) Nursing home administrator license application and renewal fees, §§ 20-10-404 and 20-10-405;
- (139) [Repealed.]
- (140) Health maintenance organizations licenses and fees, § 23-76-127;
- (141) Ionizing radiation license and registration fees, § 20-21-217;
- (142) Public Water System Service Act fees, fines, and penalties, § 20-28-101 et seq.;
- (143) Swimming pools regulation fees and fines, §§ 20-30-102 and 20-30-106;
- (144) Department of Health public health laboratory fees, § 20-7-114;
- (145) Additional real estate transfer tax, § 26-60-105(b);
- (146) Two percent (2%) of gross receipts derived from the sale or rental on certain items related to tourism, § 26-63-402;
- (147) Breath testing instrument maintenance fees, § 20-7-128;
- (148) That portion of commercial driver license application fees, § 27-23-118(a)(1); driver search fees, §§ 27-23-118(b)(1) and 27-23-118(c)(1); and all fines, forfeitures, and penalties collected under the Arkansas Uniform Commercial Driver License Act, § 27-23-118(d);
- (149) That portion of commercial driver license application fees, § 27-23-118(a)(2);
- (150) Commercial driver license examination fees, § 27-23-110(d), and that portion of commercial driver license application fees, § 27-23-118(a)(3);
- (151) Arkansas Catfish Promotion Board assessments, § 2-9-107;
- (152) Turnpike project tolls, §§ 27-90-203 and 27-90-204;
- (153) Regulated substance storage tank license fees and that portion of annual registration fees, § 8-7-802(b); civil penalties collected under § 8-7-806; and that portion of costs collected under § 8-7-807;
- (154) Landfill disposal and transportation fees, § 8-6-606;
- (155) That portion of driver's license reinstatement fees for the Office of Alcohol Testing of the Department of Health, §§ 5-65-119(a)(1), 5-65-304(d), and 5-65-310(f);
- (156) Medicaid Fraud False Claims Act penalties, § 20-77-903(c);
- (157) Child care facility fines and penalties, § 20-78-219;
- (158) Fees for certifying blasters, § 20-27-1102;
- (159) Pseudorabies Control and Eradication Program fees, § 2-40-1201;
- (160) HVACR Licensing Board fees, § 17-33-204;

(161) [Repealed.]

(162) That portion of landfill disposal fees collected when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, § 8-6-607(4);

(163) Those additional corporate income taxes as specified in § 26-51-205(c)(2);

(164) Those additional insurance premium taxes as specified in § 26-57-614 and the amount of insurance premium taxes transferred due to the provisions of §§ 24-11-301 and 24-11-809;

(165) Imported waste tire fees and that portion of new tire waste tire fees, § 8-9-404;

(166) Commercial medical waste fees and fines, § 20-32-104;

(167) Additional landfill disposal and transportation fees, § 8-6-1003 et seq.;

(168) That portion of annual registration fees for above-ground storage tanks, § 8-7-802(b);

(169) Fees received by the State Plant Board for licensing and regulation of public grain warehouses;

(170) Elder or disabled persons enhanced civil penalties, § 4-88-202;

(171) That portion of estate taxes collected in a calendar year that exceeds ten percent (10%) of the average annual estate taxes collected for a five-year period immediately preceding the calendar year or fifteen million dollars (\$15,000,000), whichever is greater, § 26-59-122(a);

(172)(A) The additional fees assessed or imposed upon insurers, insurance agents, brokers, professional bail bond companies, and other licensees or registrants, § 23-61-711;

(B) The additional professional bail bond company fees, § 17-19-111;

(C) Health maintenance organization fees, § 23-76-127;

(D) Professional employer organization biennial license fees, § 23-92-407; and

(E) Employer service assurance organization affidavit fees, § 23-92-414;

(173) That portion of securities agents initial or renewal registration filing fees, § 23-42-304(a)(2) and 23-42-304(a)(4);

(174) That portion of securities registration statement filing fees, § 23-42-404(b)(1);

(175) Background investigation fees, § 12-8-120;

(176) Criminal history information record search fees for noncriminal justice purposes, § 12-12-1012;

(177) Alcohol and drug abuse treatment program application fees and accreditation costs, § 20-64-906;

(178) Marine Sanitation Program fees, § 27-101-408;

(179) [Repealed.]

(180) Arkansas Conservation Corps fee-for-service project fees, § 11-13-105(c);

(181) Arkansas Economic Development Incentive Act of 1993 transfers from general revenues for financial incentive plans, § 15-4-1607;

(182) Alternative fuels taxes, fees, penalties, and interest, as enacted in § 26-62-101 et seq., known as the “Alternative Fuels Tax Law”, and all laws amendatory thereto;

(183) Dog racing taxes derived from seventy-five percent (75%) of the net proceeds of six (6) additional days of dog races during each twelve-month period, § 23-111-515;

(184) Transporters of commercial medical waste vehicle inspection fees, § 20-32-105;

(185) Motor vehicle accident report and records of traffic violations photostatic or written copies fees, § 27-53-210;

(186) Motor vehicle liability insurance fines, § 27-22-103;

(187) Rail and other carriers fees, § 23-16-105;

(188) Life care provider application filing fees, § 23-93-206;

(189) Additional marriage license fees, § 9-30-109;

(190) Used motor vehicle dealer license fees, § 23-112-608, and that portion of used motor vehicle dealer fines, § 23-112-603(c)(1);

(191) State Insurance Department Criminal Investigation Division antifraud assessments and penalties, §§ 23-100-104 and 23-100-105;

(192) Seventy-one percent (71%) of the additional cigarette and tobacco products tax, § 26-57-1101 et seq., as determined by § 26-57-1106;

(193) One-eighth of one cent ($\frac{1}{8}\text{¢}$) gross receipts and compensating taxes, Arkansas Constitution, Amendment 75;

(194) Waterworks operators fees, § 17-51-106;

(195) Equine Infectious Anemia Control and Eradication Program fees, § 2-40-826;

(196) Arkansas Corn and Grain Sorghum Promotion Board assessments, § 2-20-805;

(197) State Convicted Offender DNA Data Base Act fines, § 12-12-1118;

(198) Sex Offender Registration Act of 1997 fines, § 12-12-910;

(199) [Repealed.]

(200) Thirty percent (30%) of parking fines and fees, § 27-15-305(c);

(201) Twenty-nine percent (29%) of the additional cigarette and tobacco products tax, § 26-57-1103;

(202) Additional driver's license fees, § 27-16-801;

(203) Littering fines, § 8-6-404(d)(2)(B);

(204) Fees from investigations and inspections of various boards' licensees, § 17-80-106;

(205) Body piercing, branding, and tattooing license fees and penalties, § 20-27-1503;

(206) [Repealed.]

(207) [Repealed.]

(208) [Repealed.]

(209) [Repealed.]

(210) Various Department of Health vital statistic fees, § 19-6-485(b);

(211) That portion of fines collected in the Investor Education Fund in excess of one hundred fifty thousand dollars (\$150,000) in any one (1) fiscal year, § 23-42-213(c)(2);

(212) Revenue-generating technology system contract taxes and fees, § 19-11-1101(d);

(213) The first one hundred fifty thousand dollars (\$150,000) of fines collected under §§ 23-42-209, 23-42-308, and 23-42-213(b);

(214) The transfer of up to thirty-one and six-tenths percent (31.6%) of amounts received in the Tobacco Settlement Program Fund, Acts 2002 (1st Ex. Sess.), No. 2, § 19-12-108;

(215) Arkansas Biological Agent Registry Act civil penalties, §§ 20-36-104 and 19-6-487;

(216) Drug court program user fees, §§ 16-98-304 and 19-6-489;

(217) Additional marriage license fees, § 16-20-407(b)(2);

(218) That portion of an operator's driving while intoxicated driver's license reinstatement fees, § 5-65-119(a)(4);

(219) That portion of suspended, revoked, or cancelled driver's license reinstatement fees, §§ 27-16-808(b)(2) and 27-16-508(c);

(220) That portion of driver's license special fees for duplicate and identification licenses, as enacted by Acts 1977, No. 311, and all laws amendatory thereto, §§ 27-16-801, 27-16-805, and 27-16-806(c);

(221) Civil penalties and fines collected under the Arkansas Catfish Marketing Act of 1975, § 20-61-201 et seq., and § 20-61-101;

(222) That portion of penalties collected for failure to pay fees for registration and licensing of motor vehicles, § 27-14-601(e);

(223) Design-use contribution fees, § 27-15-4904;

(224) Mixed drink supplemental taxes on sales of alcoholic beverages, §§ 3-9-213(c)(2)(A) and 3-9-223(c)(2)(A);

(225) Arkansas Bureau of Standards lab tests or inspection fees, § 4-18-329(c);

(226) Auto auction fees for salvage-titled or parts-only titled vehicles, § 23-112-614;

(227) Vehicle identification number verification fees, § 27-14-725(d);

(228) Spyware monitoring fines and penalties, § 4-111-104;

(229) That portion of uniform filing fees collected in circuit court under §§ 16-10-314 and 21-6-403(b)(1);

(230) Forfeited bonds; fee assessments; reimbursements for well-site plugging, repair, and restoration costs from well operators; and proceeds from the sale of hydrocarbons and production equipment located at the site of abandoned and orphaned wells, §§ 15-71-110(e) and 15-71-116;

(231) County quorum court special license plate application fees, § 27-24-303(b)(2);

(232) Fees for diagnostic laboratory services of the Division of Agriculture of the University of Arkansas, § 6-64-1013;

(233) That portion of uniform filing fees collected in circuit court under §§ 21-6-403(b)(1) and 16-10-313;

(234) Commercial motor vehicle driving offenses fines and penalties, § 27-23-114(h)(2);

- (235) Criminal History for Volunteers Act fees, § 12-12-1609;
- (236) Adult and Long-Term Care Facility Resident Maltreatment Act civil penalties, § 12-12-1706;
- (237) Phase I Environmental Site Assessment Consultant Act fees, §§ 8-7-1301 — 8-7-1304, 8-7-1305 — 8-7-1310 [repealed], 8-7-1311;
- (238) Ninety-five percent (95%) of the severance tax collected on natural gas at the rates enacted by § 26-58-111(5);
- (239) Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq., registration fees, § 23-13-604;
- (240) Landfill disposal fees to support a computer and electronic recycling program, §§ 8-6-612 and 8-6-614;
- (241) Commercial Driver Alcohol and Drug Testing Database penalties, § 27-23-209;
- (242) School-Age Children Eye and Vision Care Fund donations, grants of money, gifts and appropriations from private sources, from municipal and county governments, from the state, and from the federal government, as created in uncodified Section 1 of Acts 2007, No. 138;
- (243) Arkansas retirement community eligibility application fees, § 15-14-104;
- (244) Annual fleet management fees, § 27-14-610(e)(2);
- (245) Securities agents branch office registration filing fees, § 23-42-304(a)(5);
- (246) The first designated portion of real estate transfer taxes for the continuing education of county coroners under §§ 26-60-105 and 26-60-112;
- (247) Registration for nonprofit motor vehicle fleets management fees, § 27-14-611(d)(1); and
- (248) Suspended registration reinstatement fees, § 27-22-103(b)(4)(B)(i).

History. Acts 1973, No. 808, § 8; 1975, No. 863, § 5; 1979, No. 1027, §§ 2, 10; 1983, No. 222, §§ 3, 4; 1983, No. 801, § 1; 1985, No. 65, §§ 3, 4; 1985, No. 613, § 1; 1985, No. 888, § 13; A.S.A. 1947, § 13-503.7; Acts 1987, No. 792, §§ 2, 3; 1989, No. 551, §§ 2, 3; 1989, No. 821, § 6; 1991, No. 76, §§ 1, 2; 1991, No. 765, § 5; 1993, No. 324, § 2; 1993, No. 1072, §§ 3, 4; 1993, No. 1073, § 29; 1995, No. 270, §§ 2, 3; 1995, No. 369, § 2; 1997, No. 156, § 2; 1997, No. 298, §§ 2, 13; 1997, No. 974, § 18; 1997, No. 1071, § 2; 1999, No. 15, § 4; 1999, No. 282, §§ 3, 4, 14; 1999, No. 1122, § 3; 1999, No. 1164, § 168; 2001, No. 229, §§ 5-7; 2003, No. 28, §§ 7-16; 2003, No. 1750, § 6; 2005, No. 20, §§ 2-7; 2007, No. 182, § 20; 2007, No. 407, §§ 2-6; 2007, No. 873, §§ 5, 6; 2008 (1st Ex. Sess.), No. 4, §§ 4, 5; 2008 (1st Ex. Sess.), No. 5, §§ 4, 5; 2009, No. 610, § 6; 2009, No.

1464, §§ 2-4; 2011, No. 173, § 1; 2011, No. 265, § 4; 2011, No. 828, § 8; 2011, No. 1008, §§ 2-5; 2011, No. 1058, § 2; 2013, No. 551, § 6; 2013, No. 1393, § 3; 2013, No. 1433, § 12.

A.C.R.C. Notes. Acts 2008 (1st Ex. Sess.), Nos. 4 and 5, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly has determined that the severance tax rate on natural gas should be increased and that there should be different rates of tax for different categories of natural gas.

"(b) Amendment 19 of the Arkansas Constitution required this act to be passed by at least three-fourths of the members of the Senate and at least three-fourths of the members of the House of Representatives.

"(c) In order to implement the increase in the severance tax rate, the General

Assembly has identified the following four categories of natural gas, each as defined in Arkansas Code § 26-58-101:

- “(1) High-cost gas;
- “(2) Marginal gas;
- “(3) New discovery gas; and
- “(4) All natural gas that is not defined as high-cost gas, marginal gas, or new discovery gas.

“(d) To increase the severance tax rate, the General Assembly used the method of levying a specific tax rate on each category so that any future legislative enactment that would have the effect of increasing the rate of severance tax on any of those categories of natural gas as defined by § 26-58-101 will also be subject to the three-fourths vote requirement of Amendment 19 of the Arkansas Constitution.”

Amendments. The 2011 amendment by No. 173 added “and commercial mobile

radio service provider telephone number surcharges” in (129).

The 2011 amendment by No. 265 re-wrote (226).

The 2011 amendment by No. 828 re-wrote (124).

The 2011 amendment by No. 1008 deleted “and temporary permit fees, § 27-16-803(c)(4)” following “§ 27-23-110(d)” in (150); deleted (161); deleted “Unregistered motor vehicle fines, § 27-14-314, and motor” from the beginning of (186); and added (244) and (245).

The 2011 amendment by No. 1058 re-wrote (3)(A).

The 2013 amendment by No. 551 added (246).

The 2013 amendment by No. 1393 added (247) and (248).

The 2013 amendment by No. 1433 deleted “(c)” following “23-76-127” in (172)(C).

SUBCHAPTER 4 — SPECIAL REVENUE FUNDS

SECTION.

- 19-6-405. State Highway and Transportation Department Fund.
- 19-6-413. [Repealed.]
- 19-6-415. Arkansas Abstracters’ Board Fund.
- 19-6-426. Arkansas Museum of Natural Resources Fund.
- 19-6-428. [Repealed.]
- 19-6-442. County Clerks Continuing Education Fund and the Circuit Clerks Continuing Education Fund.
- 19-6-444. [Repealed.]
- 19-6-450. Individual Sewage Disposal

SECTION.

- Systems Improvement Fund.
- 19-6-452. Asbestos Control Fund.
- 19-6-458. Developmental Disabilities Services — Dog Track Special Revenue Fund.
- 19-6-465. Child Care Fund.
- 19-6-470. [Repealed.]
- 19-6-475. Securities Department Fund.
- 19-6-484. Conservation Tax Fund.
- 19-6-491. Domestic Peace Fund.
- 19-6-499. Fallen Firefighters’ Memorial Fund.

Effective Dates. Acts 2009, No. 610, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2009 could work irreparable harm upon

the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2009.”

Acts 2009, No. 762, § 12: Sept. 1, 2009.

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the

Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 294, § 11: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011.”

Acts 2011, No. 860, § 3: May 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Capitol Grounds Monument and Memorial Preservation Fund is unfunded; that the monuments and memorial areas on the State Capitol grounds often need maintenance and repair; that clarification is necessary so that the Secretary of State can perform his duties; and that this act is necessary to provide the necessary funding for the Arkansas Capitol Grounds Monument and Memorial Preservation Fund. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2011.”

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2013, No. 438, § 3: July 1, 2013. Emergency clause provided: “It is hereby found and determined by the General Assembly that the effectiveness of this Act on July 1, 2013 is essential to the operation of programs supported by funds deposited into and contained in the Securities Department Fund, and that in the event of the extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2013 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2013.”

Acts 2013, No. 489, § 6: Emergency clause failed to pass. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General As-

sembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Acts 2013, No. 545, § 3: Jan. 1, 2014.

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amend-

ment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

19-6-405. State Highway and Transportation Department Fund.

The State Highway and Transportation Department Fund shall consist of:

(1) That part of the special revenues as specified in § 19-6-301(2)-(4), (22), (81), (105)-(107), and (182), known as “highway revenue”, as distributed under the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., and § 27-70-103 and § 27-72-301 et seq.;

(2) Those special revenues specified in § 19-6-301(10), (152), (187), (239), and (241);

(3) Fifty percent (50%) of § 19-6-301(26);

(4) That portion of § 19-6-301(2) as set out in § 27-14-601(a)(3)(H)(ii)(f);

(5) That portion of § 19-6-301(222);

(6) Those designated revenues as set out in § 26-56-201(e)(1), which consist of the additional total of four cents (4¢) distillate special fuel taxes to be distributed as provided in the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq.;

(7) Federal revenue sharing funds as set out in § 19-5-1005; and

(8) Any federal funds which may become available, there to be used for the maintenance, operation, and improvement required by the Arkansas State Highway and Transportation Department in carrying out the functions, powers, and duties as set out in Arkansas Constitution, Amendment 42, and §§ 27-65-102 — 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state prescribing the powers and duties of the department and the State Highway Commission.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 8; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1991, No. 1040, § 2; 1991, No. 1239, § 2; 1993, No. 1072, § 6; 1995, No. 270, § 5; 1997, No. 298, § 4; 2001, No.

229, § 8; 2005, No. 20, § 9; 2009, No. 1464, § 5.

Amendments. The 2009 amendment added “(239), and (241)” and made a related change in (2).

19-6-410. Oil and Gas Commission Fund.

A.C.R.C. Notes. Acts 2013, No. 121, § 6, provided: “FUND TRANSFER. The Oil and Gas Commission, after receiving review from the Chief Fiscal Officer of the State and the Legislative Council, may request the Chief Fiscal Officer to transfer

up to \$2,000,000 per year on his or her books and the books of the State Treasurer and the Auditor of the State from the Oil and Gas Commission Fund to the Abandoned and Orphaned Well Plugging Fund.”

19-6-411. State Forestry Fund.

A.C.R.C. Notes. Acts 2013, No. 434, § 46, provided: “REFUND TO EXPENDITURE. The Arkansas Forestry Commission is authorized to charge fees to federal agencies and other states to reimburse the Commission for expenditures made on behalf of these governmental units. These

fees shall be deposited into the State Forestry Fund in the State Treasury as a refund to expenditure.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

19-6-413. [Repealed.]

Publisher’s Notes. This section, concerning the Cosmetology Operating Fund, was repealed by Acts 2011, No. 1008, § 6.

The section was derived from Acts 1973, No. 808, § 14; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2003, No. 69, § 4.

19-6-415. Arkansas Abstracters’ Board Fund.

The Arkansas Abstracters’ Board Fund shall consist of those special revenues as specified in § 19-6-301(93), there to be used for the maintenance, operation, and improvement of the Arkansas Abstracters’ Board.

History. Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2009, No. 1464, § 6.

deleted “Examining” preceding “Board” in the section heading; and rewrote the section.

Amendments. The 2009 amendment

19-6-426. Arkansas Museum of Natural Resources Fund.

The Arkansas Museum of Natural Resources Fund shall consist of those special revenues as specified in § 19-6-301(61) and (101), there to be used for the construction, maintenance, operation, and improvement of the Arkansas Museum of Natural Resources of the State Parks Division of the Department of Parks and Tourism in exercising the powers, functions, and duties as set out in § 13-5-401 et seq., and for paying the expenses of administering such funds by the department as may be authorized by law.

History. Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2009, No. 251, § 23.

Amendments. The 2009 amendment substituted “Arkansas Museum of Natu-

ral Resources” for “Oil Museum” and for “Arkansas Oil and Brine Museum,” substituted “State Parks Division of the Department of Parks and Tourism” for “State Parks, Recreation, and Travel Commission,” substituted “the department” for

“the Department of Parks and Tourism,” and made related changes.

19-6-428. [Repealed.]

Publisher’s Notes. This section, concerning the Severed Resources Fund, was repealed by Acts 2009, No. 610, § 7. The section was derived from Acts 1973, No. 808, § 8; 1975, No. 863, § 5; 1979, No. 1027, §§ 2, 10; 1983, No. 222, §§ 3, 4; 1983, No. 801, § 1; 1985, No. 65, §§ 3, 4; 1985, No. 613, § 1; 1985, No. 888, § 13; A.S.A. 1947, § 13-503.7; Acts 1987, No. 792, §§ 2, 3; 1989, No. 551, §§ 2, 3; 1989, No. 821, § 6; 1991, No. 76, §§ 1, 2; 1991, No. 765, § 5; 1993, No. 324, § 2; 1993, No.

1072, §§ 3, 4; 1993, No. 1073, § 29; 1995, No. 270, §§ 2, 3; 1995, No. 369, § 2; 1997, No. 156, § 2; 1997, No. 298, §§ 2, 13; 1997, No. 974, § 18; 1997, No. 1071, § 2; 1999, No. 15, § 4; 1999, No. 282, §§ 3, 4, 14; 1999, No. 1122, § 3; 1999, No. 1164, § 168; 2001, No. 229, §§ 5-7; 2003, No. 28, §§ 7-16; 2003, No. 1750, § 6; 2005, No. 20, §§ 2-7; 2007, No. 182, § 20; 2007, No. 407, §§ 2-6; 2007, No. 873, §§ 5, 6; 2008 (1st Ex. Sess.), No. 4, §§ 4, 5; 2008 (1st Ex. Sess.), No. 5, §§ 4, 5.

19-6-442. County Clerks Continuing Education Fund and the Circuit Clerks Continuing Education Fund.

The County Clerks Continuing Education Fund and the Circuit Clerks Continuing Education Fund shall consist of those special revenues as specified in § 19-6-301(119), there to be used for defraying the expenses of training seminars and other educational projects benefiting county and circuit clerks in this state as set out in §§ 16-20-105 and 16-20-110 and § 26-60-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 2009, No. 480, § 3.

Amendments. The 2009 amendment inserted “and the Circuit Clerks Continu-

ing Education Fund,” and substituted “§§ 16-20-105 and 16-20-110 and § 26-60-101 et seq.” for § 26-60-101 et seq. and § 16-20-105.”

19-6-444. [Repealed.]

Publisher’s Notes. This section, concerning the Arkansas Department of Environmental Quality Fee Fund, was repealed by Acts 2009, No. 1464, § 7. The

section was derived from Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13; Acts 1995, No. 270, § 7; 1999, No. 1164, § 170.

19-6-450. Individual Sewage Disposal Systems Improvement Fund.

The Individual Sewage Disposal Systems Improvement Fund shall consist of that portion of those special revenues as specified in § 19-6-301(58) there to be used by the Environmental Health Services Division of the Department of Health for, and in the manner recommended by, the Individual Sewage Disposal Systems Advisory Committee for implementation of the utilization and application of alternate and experimental individual sewage disposal systems as set out in the Arkansas Sewage Disposal Systems Act, § 14-236-101 et seq.

History. Acts 1973, No. 808, § 14; 1985, No. 65, § 7; A.S.A. 1947, § 13-503.13; Acts 1989, No. 551, § 6; 1993, No. 1072, § 7.

Publisher's Notes. This section is being set out to correct an agency name and a statutory reference.

19-6-452. Asbestos Control Fund.

The Asbestos Control Fund shall consist of the special revenues specified in § 19-6-301(130) and any other revenues authorized by law there to be used to administer and enforce a program for licensing contractors engaged in the removal of friable asbestos materials from facilities by the Arkansas Department of Environmental Quality under §§ 20-27-1001 — 20-27-1007.

History. Acts 1987, No. 792, § 5; 1999, No. 1164, § 171; 2013, No. 489, § 1.

A.C.R.C. Notes. Acts 2013, No. 489, § 5, provided: "On or before July 31, 2013, the Arkansas Department of Environmental Quality shall make a one-time designation of five hundred thousand dollars (\$500,000) of unobligated existing balances within the Asbestos Control Fund to

the Asbestos Abatement Grant Program to be used as provided under §§ 20-27-1008 — 20-27-1014."

Amendments. The 2013 amendment inserted "and any other revenues authorized by law," and substituted "under § 20-27-1001 — 20-27-1007" for "as set out in § 20-27-1001 et seq." and made stylistic changes.

19-6-454. Firemen's and Police Officers' Pension and Relief Fund.

A.C.R.C. Notes. Acts 2013, No. 1443, § 78, provided: "On July 1, 2013, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of

State the balances of the Arkansas Fire and Police Pension Guarantee Fund to the Firemen's and Police Officers' Pension and Relief Fund."

19-6-458. Developmental Disabilities Services — Dog Track Special Revenue Fund.

There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Developmental Disabilities Services — Dog Track Special Revenue Fund" that shall consist of those special revenues as specified in § 19-6-301(16), there to be used for the sole benefit of community programs of the Division of Developmental Disabilities Services of the Department of Human Services licensed by the division.

History. Acts 1989 (3rd Ex. Sess.), No. 85, § 2; 2003, No. 28, § 19; 2009, No. 251, § 24.

Amendments. The 2009 amendment inserted "the Auditor of State" and made minor punctuation and stylistic changes.

19-6-465. Child Care Fund.

The Child Care Fund shall consist of those special revenues as specified in § 19-6-301(133) and (157) and moneys received from the Department of Human Services, there to be used by the Division of

Child Care and Early Childhood Education of the Department of Human Services exclusively to provide grants to child care facilities for enhancement of the facility or for training of personnel in child care facilities and to meet the costs of conducting the statewide criminal records checks required under § 20-78-606, all as set out in the Child Care Facility Licensing Act, § 20-78-201 et seq.

History. Acts 1991, No. 76, § 4; 1999, No. 282, § 7; 2009, No. 762, § 3. substituted “§ 20-78-606” for “§ 20-78-602.”

Amendments. The 2009 amendment

19-6-470. [Repealed.]

Publisher’s Notes. This section, concerning the Apprentice Plumbers Training Fund, was repealed by Acts 2011, No. 1008, § 7. The section was derived from Acts 1993, No. 1072, § 12.

19-6-475. Securities Department Fund.

The Securities Department Fund shall consist of those special revenues as specified in § 19-6-301(211), the first four million dollars (\$4,000,000) of those special revenues as specified in § 19-6-301(173), (174), and (245), and such other funds as may be provided by law or regulatory action, there to be used for maintenance, operation, support, and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rule and regulation not inconsistent with law, as set out in § 23-42-211.

History. Acts 1995, No. 270, § 11; 2005, No. 20, § 13; 2011, No. 294, § 7; 2011, No. 1008, § 8; 2013, No. 438, § 1. The 2011 amendment by No. 1008 inserted “(245).”

Amendments. The 2011 amendment by No. 294 substituted “July 1, 2013” for “July 1, 2011” and “two million dollars (\$2,000,000)” for “one million dollars (\$1,000,000).” The 2013 amendment substituted “the first four million dollars (\$4,000,000)” for “and until July 1, 2013, the first two million dollars (\$2,000,000).”

19-6-484. Conservation Tax Fund.

The Conservation Tax Fund shall consist of those general revenues as specified in § 26-56-201(g)(1)(D) and those special revenues as specified in § 19-6-301(193) there to be distributed to the fund accounts as set out below, which are created by this section unless specifically created in other provisions of the Arkansas Code, and under the following procedures:

(1) The Revenue Division of the Department of Finance and Administration shall deposit the funds collected under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., for gross receipts taxes and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., for compensating taxes into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund;

(2)(A) On the last day of each month, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the estimated amount of gross receipts and compensating tax collections in the Revenue Holding Fund Account that are a result of the changes by the passage of Arkansas Constitution, Amendment 75.

(B) The Treasurer of State shall then transfer the amount so certified to the Special Revenue Fund Account of the State Apportionment Fund as part of the gross special revenues.

(C) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the Conservation Tax Fund.

(D) The remaining gross receipts and compensating tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.; and

(3) The Treasurer of State shall then make the following transfers from the Conservation Tax Fund to the fund accounts set out below at the end of each month:

(A) Forty-five percent (45%) to the Game Protection Fund to be used exclusively by the Arkansas State Game and Fish Commission as appropriated by the General Assembly;

(B) Forty-five percent (45%) to the Department of Parks and Tourism Fund Account to be used by the Department of Parks and Tourism for state park purposes as appropriated by the General Assembly;

(C) Nine percent (9%) to the Arkansas Department of Heritage Fund Account to be used exclusively by the Department of Arkansas Heritage as appropriated by the General Assembly; and

(D)(i) One percent (1%) to the Keep Arkansas Beautiful Fund Account to be used exclusively by the Keep Arkansas Beautiful Commission as appropriated by the General Assembly.

(ii) The Keep Arkansas Beautiful Fund Account shall also consist of the special revenues as specified in § 19-6-301(203).

History. Acts 1997, No. 156, § 1; 2003, No. 28, § 20; 2013, No. 1393, § 4.

Amendments. The 2013 amendment inserted “general revenues as specified in § 26-56-201(g)(1)(D) and those” in the introductory language; in (1), inserted “the Arkansas Gross Receipts Act of 1941,” and

“the Arkansas Compensating Tax Act of 1949,”; substituted “Treasurer of State” for “State Treasurer” in (2)(A), (2)(B), and (3); and, in (3)(D)(i), inserted “the” preceding “Keep Arkansas” and “Commission” following “Arkansas Beautiful.”

19-6-491. Domestic Peace Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Domestic Peace Fund”.

(b)(1) The moneys collected under § 16-20-407, as designated under § 16-20-407(b)(2), and § 16-10-305(g) shall be deposited into the State Treasury to the credit of the fund as special revenue.

(2) The fund shall also consist of:

(A) That portion of special revenues specified in § 19-6-301(172)(B);

(B) Moneys obtained from private grants or other sources that are designated to be credited to the fund; and

(C) Other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Child Abuse/Rape/Domestic Violence Commission as provided under the Arkansas Domestic Peace Act, § 9-4-101 et seq.

History. Acts 2003, No. 1029, § 2; 2005, No. 20, § 16; 2005, No. 1962, § 86; 2009, No. 1464, § 8; 2013, No. 1357, § 2.

tory language of (b)(2); and inserted present (b)(2)(A) and redesignated the remaining subdivisions accordingly.

Amendments. The 2009 amendment deleted “any” at the end of the introduc-

The 2013 amendment inserted “and § 16-10-305(g)” in (b)(1).

19-6-499. Fallen Firefighters’ Memorial Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Fallen Firefighters’ Memorial Fund”.

(b)(1) All moneys collected under § 27-24-1303(c)(2)(C) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c)(1) The moneys deposited into the fund shall be used by the Secretary of State to satisfy the fee requirements for placement, improvements to, or replacement of the monument or memorial area under § 19-5-1125(c).

(2) All maintenance and costs shall be approved by the Arkansas Fallen Firefighters’ Memorial Board and the Capitol Arts and Grounds Commission.

History. Acts 2005, No. 28, § 4; 2009, No. 251, § 25; 2011, No. 860, § 2.

substituted “27-24-1303(c)(2)(C)” for “27-15-2702(a)(2) [repealed]” in (b)(1).

Amendments. The 2009 amendment

The 2011 amendment rewrote (c)(1).

SUBCHAPTER 7 — NONREVENUE RECEIPTS

SECTION.

19-6-701. Nonrevenue receipts.

19-6-701. Nonrevenue receipts.

(a) Nonrevenue receipts shall consist of:

(1) The repayment of the principal amount of loans;

(2) The proceeds of the sale and redemption of securities, including premiums received thereon;

(3) The transfer of funds, by warrants, between funds or fund accounts on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State;

(4) Federal reimbursement received by state agencies on account of eligible expenditures for specific programs and deposited into funds or fund accounts in the State Treasury classified other than federal;

(5) Refunds to the state or state agencies, departments, or institutions; and

(6) Funds collected from drug manufacturers as rebates according to promulgated regulations of Title XIX of the Social Security Act, as amended, and deposited into the Arkansas Medicaid Rebate Program Revolving Fund. These funds shall be transferrable to the Department of Human Services Medicaid Paying Accounts Account for disbursement in the Arkansas Medicaid Program.

(b) Refunds to expenditures shall consist of:

(1) Proceeds received from insurance policies for casualty losses by state agencies, departments, or institutions;

(2) Proceeds received from vendors on account of overpayment of obligations remitted by state agencies, departments, or institutions;

(3) Refunds to state agencies for cash advances or over allocations made to other state and local agencies for subgrants;

(4) Refunds to state agencies for the erroneous payment or overpayment of salaries to state employees;

(5) Proceeds derived from the maturity or redemption of investments;

(6) Reimbursements to institutions of higher learning for cash fund expenditures for salaries that are properly chargeable to funds in the State Treasury;

(7) Deposits by the counties in the State Aid Road Fund and in the County Supplement Fund Account in the State Treasury for matching funds available in the state aid road construction program;

(8) Reimbursements to state agencies for cost-sharing purposes;

(9) Federal reimbursements of expenses paid in advance by the state on behalf of the federal government; and

(10) Reimbursements by vendors or their agents for warranties, product rebates, and service adjustments.

(c) The first eighteen million dollars (\$18,000,000) received each fiscal year by the State of Arkansas under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. § 6701, commonly referred to as the Revenue Sharing Act, shall be transferred by the Treasurer of State to the Federal Revenue Sharing State Highway Trust Fund Account in the State Highway and Transportation Department Fund.

(d) Income derived from the sale of miscellaneous and junk inventories whose ownership is questionable or where excessive administrative accounting is required shall be deposited into the State Treasury as a nonrevenue receipt, there to be credited to the state Miscellaneous Agencies Fund Account.

History. Acts 1973, No. 808, § 11; 1975, No. 230, § 4; 1975, No. 868, § 13; 1977, No. 437, § 1; 1979, No. 1027, §§ 4, 5; A.S.A. 1947, §§ 13-503.10, 13-503.10a; Acts 1991, No. 1023, § 5; 1997, No. 795, § 2; 2007, No. 716, § 1.

Publisher’s Notes. This section is being set out to correct a reference to a fund account in (d).

SUBCHAPTER 8 — SPECIAL REVENUE FUNDS CONTINUED

SECTION.

- 19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund.
- 19-6-805. [Repealed.]
- 19-6-806. Abandoned and Orphan Well Plugging Fund.
- 19-6-810. [Repealed.]
- 19-6-811. Wildlife Recreation Facilities Fund.
- 19-6-812. Cigarette Fire Safety Standard Fund.
- 19-6-813. Military Funeral Honors Fund.
- 19-6-814. Digital Product and Motion Picture Office Fund.
- 19-6-815. School-Age Children Eye and Vision Care Fund.
- 19-6-816. Arkansas Retirement Community Program Fund Account.
- 19-6-817. State Drug Crime Enforcement and Prosecution Grant Fund.
- 19-6-818. Wildlife Observation Trail Fund.
- 19-6-819. Arkansas Video Service Fund.

SECTION.

- 19-6-820. Arkansas Court Appointed Special Advocates Program Fund. [Effective January 1, 2014.]
- 19-6-821. County Coroners Continuing Education Fund.
- 19-6-822. Fallen Law Enforcement Officers’ Beneficiary Fund. [Effective January 1, 2014.]
- 19-6-823. Alcoholic Beverage Control Fund.
- 19-6-824. Commercial Truck Safety and Education Fund. [Effective October 1, 2013.]
- 19-6-825. Arkansas Sheriffs’ Association Education Fund.
- 19-6-826. Bail Bond Recovery Fund.
- 19-6-827. Interpreters between Hearing Individuals and Individuals who are Deaf, Deaf-blind, Hard of Hearing, or Oral Deaf Fund.
- 19-6-828. State Aid Street Fund.

Effective Dates. Acts 2009, No. 697, § 3: Jan. 1, 2010.

Acts 2009, No. 816, § 4: Apr. 3, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas the incentives afforded by this Act to the digital content industry can serve to stimulate the economy of the area in which production and postproduction is performed; and that the incentives have a multiplier effect, in terms of economic development, in the locality of the production and statewide; and that tax revenues generated by the activities of digital content production and postproduction more than offset the revenue lost through the incentives provided by this act. Therefore, an emergency is declared to exist and this act being neces-

sary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1464, § 11: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is

necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2009 have been made by the Eighty-Seventh General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

Acts 2011, No. 1008, § 10: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2011 have been made by the Eighty-Eighth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

Acts 2013, No. 276, § 3: Mar. 6, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that perhaps the lack of uniformity in the laws governing video service providers is inequitable to certain citizens and government entities; that this act establishes uniform regulation of video service providers and a simplified process for the issuance of a state franchise that will encourage entry of new video service providers to the state marketplace; and that this act is immediately necessary because it ensures uniform regulation of video service providers, assures equality of treatment of video service providers, and encourages new video service providers to enter the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the

Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 545, § 3: Jan. 1, 2014.

Acts 2013, No. 586, § 5: Jan. 1, 2014.

Acts 2013, No. 1105, § 4: Emergency clause failed to pass. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that a supplier of an alcoholic beverage is not required to file an application with the Alcoholic Beverage Control Division each calendar year; that suppliers should be required to register with the division each calendar year; and that the division’s yearly registration period begins on April 1. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1176, § 5: Oct. 1, 2013.

Acts 2013, No. 1283, § 6: Emergency clause failed to pass. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that collection of fees for bail bonds fund various necessary programs in our state; that the law is currently unclear on the collection of these fees; and that this act is necessary because the law needs to be clear on the collection of these fees so that the programs are funded properly in a timely manner. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is

necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropriations which become effective July 1, 2013

have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Arkansas Citizens First Responder Safety Enhancement Fund”.

(b) The fund shall consist of eighty percent (80%) of the fines collected under § 27-22-111(a).

(c) The fund is to be used as appropriated by the General Assembly as follows:

(1) Fifty percent (50%) of the fund shall be used for emergency medical services; and

(2) Fifty percent (50%) of the fund shall be used for local law enforcement.

History. Acts 2005, No. 2246, § 2; 2013, No. 1393, § 5.

inserted (b) and redesignated former (b) as present (c).

Amendments. The 2013 amendment

19-6-805. [Repealed.]

Publisher’s Notes. This section, concerning the Arkansas Rx Program Fund was repealed by Acts 2013, No. 1145, § 1.

The section was derived from Acts 2007, No. 407, § 17; 2009, No. 1464, § 9.

19-6-806. Abandoned and Orphan Well Plugging Fund.

The Abandoned and Orphan Well Plugging Fund shall consist of those special revenues as specified in § 19-6-301(230), proceeds from the transfer of a well, well-site equipment, or hydrocarbons from the well as established by § 15-72-217(b)(2), grants, gifts, and any other revenues as may be authorized by law, there to be used by the Oil and Gas Commission to provide security in the event an oil and/or gas well operator fails to perform plugging responsibilities under § 15-72-217 or fails to correct well conditions that create an imminent danger to the health or safety of the public, or threaten significant environmental harm or damage to property.

History. Acts 2007, No. 407, § 17; 2011, No. 1008, § 9.

Amendments. The 2011 amendment inserted “proceeds from the transfer of a

well, well-site equipment, or hydrocarbons from the well as established by § 15-72-217(b)(2).”

19-6-810. [Repealed.]

Publisher’s Notes. This section, concerning the Choose Life Adoption Assistance Program Fund was repealed by Acts

2013, No. 1146, § 5. The section was derived from Acts 2007, No. 1032, § 33; 2007, No. 1201, § 33.

19-6-811. Wildlife Recreation Facilities Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Wildlife Recreation Facilities Fund” administered by the Department of Rural Services.

(b) The fund shall consist of:

(1) Those special revenues and any other revenues authorized by law;

(2) Any moneys appropriated to it by the General Assembly; and

(3) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the department to develop criteria to establish and fund the development and maintenance of wildlife recreation facilities.

History. Acts 2009, No. 687, § 2.

19-6-812. Cigarette Fire Safety Standard Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Cigarette Fire Safety Standard Fund”.

(b) The fund shall consist of:

(1) All certification fees paid under § 20-27-2105;

(2) All moneys recovered as civil penalties under § 20-27-2107; and

(3) Any other revenues as may be authorized by law.

(c) The fund shall be used by the Director of Arkansas Tobacco Control to support fire safety and prevention programs.

History. Acts 2009, No. 697, § 1.

19-6-813. Military Funeral Honors Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Military Funeral Honors Fund”.

(b)(1) All moneys collected under § 27-24-209(d)(7) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues authorized by law.

(c) The fund shall be used by the Department of Veterans' Affairs to assist with the cost of providing military funeral honors at veterans' funerals.

History. Acts 2009, No. 784, § 2.

19-6-814. Digital Product and Motion Picture Office Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Digital Product and Motion Picture Office Fund".

(b) The fund shall consist of revenues as authorized by law.

(c) The fund shall be used for providing additional funds for duties and functions of the Motion Picture Office of the Arkansas Economic Development Commission.

(d)(1) The fund shall be administered in accordance with rules promulgated by the Department of Finance and Administration.

(2) The department shall consult with the Motion Picture Office of the Arkansas Economic Development Commission.

History. Acts 2009, No. 816, § 2.

19-6-815. School-Age Children Eye and Vision Care Fund.

The School-Age Children Eye and Vision Care Fund shall consist of those special revenues as specified in § 19-6-301(242), and any other revenues as may be authorized by law, there to be used by the Arkansas Commission on Eye and Vision Care of School Age Children for the purpose of carrying out its responsibilities as stated in uncodified Section 1 of Acts 2007, No. 138.

History. Acts 2009, No. 1464, § 10.

19-6-816. Arkansas Retirement Community Program Fund Account.

The Arkansas Retirement Community Program Fund Account shall consist of those special revenues as specified in § 19-6-301(243), and any other revenues as may be authorized by law, there to be used by the Arkansas Institute for Economic Advancement of the University of Arkansas at Little Rock for payment of administrative and personnel costs and other costs of the Arkansas Association of Development Organizations associated with administering the Arkansas Retirement Community Program, as set out in the Arkansas Retirement Community Program Act, § 15-14-101 et seq.

History. Acts 2009, No. 1464, § 10;
2013, No. 1393, § 6.

Amendments. The 2013 amendment substituted "Arkansas Institute for Eco-

conomic Advancement of the University of Arkansas at Little Rock” for “Arkansas Economic Development Commission” and “Arkansas Association of Development Organizations associated” for “department associated.”

19-6-817. State Drug Crime Enforcement and Prosecution Grant Fund.

(a) There is hereby established and created on the books of the Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State a special revenue fund to be known as the “State Drug Crime Enforcement and Prosecution Grant Fund”.

(b) The fund shall consist of:

- (1) Revenues generated under § 12-17-106; and
- (2) Any moneys authorized by the General Assembly.

(c) The fund shall be used by the Department of Finance and Administration for the purpose of funding state grant awards for multi-jurisdictional drug crime task forces to investigate and prosecute drug crimes within the State of Arkansas, as set out in § 12-17-101 et seq.

History. Acts 2009, No. 1464, § 10. Enforcement and Prosecution Grant
Cross References. State Drug Crime Fund, § 12-17-102.

19-6-818. Wildlife Observation Trail Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Wildlife Observation Trail Fund” administered by the Department of Parks and Tourism.

(b) The fund shall consist of:

- (1) Those special revenues and any other revenues as may be authorized by law;
- (2) Any moneys appropriated to it by the General Assembly; and
- (3) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the department to develop criteria to establish and fund the development and maintenance of wildlife observation trails.

History. Acts 2009, No. 686, § 2.

19-6-819. Arkansas Video Service Fund.

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Video Service Fund”.

(b)(1) All moneys collected under § 23-19-204 shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Secretary of State to review and issue certificates of franchise authority.

History. Acts 2013, No. 276, § 1.

19-6-820. Arkansas Court Appointed Special Advocates Program Fund. [Effective January 1, 2014.]

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Court Appointed Special Advocates Program Fund”.

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used for providing program support for local offices of the Arkansas Court Appointed Special Advocates program.

History. Acts 2013, No. 545, § 2.

Effective Dates. Acts 2013, No. 545,
§ 3: Jan. 1, 2014.

19-6-821. County Coroners Continuing Education Fund.

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the “County Coroners Continuing Education Fund”.

(b)(1) The fund shall consist of those special revenues as specified in § 19-6-301(246).

(2) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used for defraying the expenses of training seminars and other educational projects benefiting county coroners in this state as set out in §§ 14-15-308, 16-20-105, 16-20-110, and § 26-60-101 et seq.

History. Acts 2013, No. 551, § 7.

19-6-822. Fallen Law Enforcement Officers’ Beneficiary Fund. [Effective January 1, 2014.]

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Fallen Law Enforcement Officers’ Beneficiary Fund”.

(b) The fund shall consist of such revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Commission on Law Enforcement Standards and Training to provide such support and assistance to beneficiaries of fallen law enforcement officers as determined to be appropriate by the commission.

History. Acts 2013, No. 586, § 1.

Effective Dates. Acts 2013, No. 586,
§ 5: Jan. 1, 2014.

19-6-823. Alcoholic Beverage Control Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Alcoholic Beverage Control Fund”.

(b)(1) The registration fee of fifteen dollars (\$15.00) for each brand label and brand label size collected under § 3-2-403 shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c) The Alcoholic Beverage Control Division shall use the fund to:

(1) Educate alcoholic beverage servers and law enforcement personnel regarding state law and the division’s rules;

(2) Promote alcohol safety awareness; and

(3) Enforce state law and the division’s rules regarding underage drinking.

History. Acts 2013, No. 1105, § 3.

19-6-824. Commercial Truck Safety and Education Fund. [Effective October 1, 2013.]

(a) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the “Commercial Truck Safety and Education Fund”.

(b)(1) Beginning October 1, 2013, the first two million dollars (\$2,000,000) of the fee charged under § 27-14-601(a)(3)(G)(ii) for the fiscal year ending June 30, 2014, shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) Beginning July 1, 2014, the first two million dollars (\$2,000,000) per fiscal year of the fee charged under § 27-14-601(a)(3)(G)(ii) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(3) The fund shall also consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas State Highway and Transportation Department to improve the safety of the commercial truck industry through cooperative public-private programs that focus on increased enforcement, regulatory compliance, industry training, and educational programs to ensure the safe movement of goods on state highways.

History. Acts 2013, No. 1176, § 2.

A.C.R.C. Notes. Acts 2013, No. 1176,
§ 1, provided: “Legislative findings and
intent.

“The General Assembly finds that:

“(1) There are no programs jointly involving the trucking industry and the Arkansas State Highway and Transportation Department to ensure improved commercial truck safety on state high-

ways. Furthermore, no studies exist on ways to improve the efficiencies of freight movement that could improve highway safety;

“(2) Dedicating funding for these purposes could enable the industry and state government to create such programs. Additionally, the industry and the department could benefit from research specific to freight movement, regulatory compliance, education, and training; and

“(3) The purpose of this act is to advance state interests in roadway safety by proposing to improve the safety of the commercial truck industry through cooperative public private programs that focus on increased enforcement, regulatory compliance, industry training, and educational programs to ensure the safe movement of goods on Arkansas highways.”

Effective Dates. Acts 2013, No. 1176, § 5: Oct. 1, 2013.

19-6-825. Arkansas Sheriffs’ Association Education Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Sheriffs’ Association Education Fund”.

(b) The fund shall be used by the Arkansas Sheriffs’ Association exclusively for the performance of its duties as the official agency of the sheriffs of this state, including without limitation:

(1) Receiving and using funds for a continuing study of ways to improve the administration of sheriffs’ offices; and

(2) Developing and improving education programs designed for sheriffs’ offices in Arkansas.

History. Acts 2013, No. 1283, § 5.

19-6-826. Bail Bond Recovery Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Bail Bond Recovery Fund”.

(b)(1) All moneys collected under § 17-19-301(g) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues authorized by law.

(c) The fund shall be used exclusively for the recovery of forfeited professional bonds.

(d) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall promulgate rules concerning the disbursements of the fund.

(e)(1) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(2) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of and remittance of the delinquent fees and penalties owed under this section against any entity that has a duty to collect or remit these fees.

History. Acts 2013, No. 1283, § 5.

19-6-827. Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf Fund".

(b)(1) All moneys collected under § 20-14-801 et seq. shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues authorized by law.

(c) The fund shall be used by the Department of Health to pay costs related to the Advisory Board for Interpreters between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf and the licensure of licensed qualified interpreters under § 20-14-801 et seq.

History. Acts 2013, No. 1314, § 1.

19-6-828. State Aid Street Fund.

The State Aid Street Fund shall consist of one cent (1¢) per gallon tax from revenue distributed under the Arkansas Highway Revenue Distribution Law § 27-70-201 et seq., from the proceeds derived from existing motor fuel taxes and distillate fuel taxes, there to be used for construction, reconstruction, and improvements of the state aid street system and apportioned to municipalities as prescribed in § 27-72-413.

History. Acts 2013, No. 1393, § 7.

CHAPTER 7

FEDERAL FUNDS

SUBCHAPTER.

4. RECEIPT OF FEDERAL FUNDS GENERALLY.
7. TITLE XX SOCIAL SECURITY FUNDS.
8. SALE OR LEASE OF MINERALS, OIL, AND GAS.

SUBCHAPTER 4 — RECEIPT OF FEDERAL FUNDS GENERALLY

SECTION.

19-7-402. Sale of public domain lands and leases.

19-7-402. Sale of public domain lands and leases.

(a) Funds received by the Treasurer of State from the federal government on account of the sale of public domain lands from any funds coming to the Treasurer of State from the federal Taylor Grazing

Act, 43 U.S.C. § 315, shall be distributed to the respective counties in which the property is situated.

(b)(1) Eighty percent (80%) of the funds of each county shall be distributed to the school districts of the county in ratio to the leased territory or public domain sold within the district.

(2) The remaining twenty percent (20%) of the funds for each county shall be credited to the county road fund.

(c) The county treasurer shall make distribution of the school districts' portion on an acreage basis or other equitable basis if the data required for making a distribution of funds as provided in this section is not available at the time funds are available for distribution.

(d)(1) The Treasurer of State shall distribute that portion of the funds that accrue to the schools to the respective counties and distribute the funds that accrue to the county road funds.

(2)(A) It shall be the duty of the county quorum court to provide the county treasurer with a statement showing the distribution of the funds in accordance with law.

(B) Thereafter, the county treasurer shall credit the respective school districts with the amounts indicated.

History. Acts 1999, No. 1078, § 86; **Amendments.** The 2009 amendment 2005, No. 433, § 3; 2009, No. 1476, § 1. rewrote (d)(1).

RESEARCH REFERENCES

ALR. Construction and Application of Taylor Grazing Act (43 U.S.C.S. §§ 315 et seq.) and Regulations Promulgated Thereunder. 71 A.L.R. Fed. 2d 197.

SUBCHAPTER 7 — TITLE XX SOCIAL SECURITY FUNDS

SECTION.

19-7-701. Contract services — Advance payment.

19-7-701. Contract services — Advance payment.

(a) In order to provide effective purchased services to the needy citizens of Arkansas, the Director of the Department of Human Services is authorized to pay one-twelfth $\frac{1}{12}$ of the total amount of a Title XX contract to the service provider on the effective date of the contract. The amount of the advance payment shall be adjusted out of the reimbursement actually earned by the provider during the contract period.

(b) This section will be used only after the director has conducted a study of the financial condition of the contracting agency to determine if an advance payment is necessary. If the advance is necessary, the director shall forward his or her request and the reasons therefor to the Chief Fiscal Officer of the State for approval.

(c)(1) If the request is approved, the Chief Fiscal Officer of the State shall loan the necessary amount to the appropriate fund accounts

within the Department of Human Services from the Budget Stabilization Trust Fund.

(2) However, the balance of any loans made under subdivision (c)(1) of this section during the course of a fiscal year shall be recovered by the department and repaid to the fund by June 30 of that fiscal year.

History. Acts 1981, No. 538, § 4; A.S.A. subdivided (c), inserted “under subdivision (c)(1) of this section” in (c)(2), and 1947, § 13-743; Acts 2009, No. 251, § 26. made minor stylistic changes.

Amendments. The 2009 amendment

SUBCHAPTER 8 — SALE OR LEASE OF MINERALS, OIL, AND GAS

SECTION.

19-7-801. Federal lands.

19-7-802. [Repealed.]

19-7-801. Federal lands.

(a) Moneys received by the Treasurer of State from the federal government for a sale, lease, royalty, bonus, or rental of oil, gas, or mineral lands belonging to the federal government and located in this state shall be distributed under this section.

(b) Moneys received under subsection (a) of this section by and after September 1, 2008, by the Treasurer of State shall be credited by the Treasurer of State as follows:

(1) Fifty percent (50%) of the moneys received shall be credited to the General Revenue Fund Account of the State Apportionment Fund for distribution to various funds that participate in the distribution of general revenues in the respective proportion to each fund, to be used for the purposes under the Revenue Stabilization Law, § 19-5-101 et seq.; and

(2) Fifty percent (50%) of the moneys received shall be distributed to the counties in which the federal lands that generate the moneys are located according to federal reports that identify the counties with the federal lands that generate the moneys. Moneys under this subdivision (b)(2) shall be distributed by the Treasurer of State as follows:

(A)(i) Sixty percent (60%) of the moneys shall be distributed to the County Aid Fund, to be distributed by the Treasurer of State to the county treasurer of each county that has a school district with a boundary that includes a portion of the federal lands that generate the moneys.

(ii) A county is responsible for distributing moneys under subdivision (b)(2)(A)(i) of this section to a school district with a boundary that includes a portion of the federal lands that generate the moneys.

(iii) If there is more than one (1) school district with a boundary that includes a portion of the federal lands that generate the moneys within a county receiving these moneys, then each school district in that county shall receive a proportionate share of the moneys based on the school district's portion of the acreage over the total acreage in all districts in that county;

(B) Fifteen percent (15%) of the moneys received under this subdivision (b)(2) shall be distributed to the County Aid Fund to be distributed by the Treasurer of State to the county treasurer for credit to the county road funds of the counties to which these moneys are allocated; and

(C)(i) Twenty-five percent (25%) of the moneys received under this subdivision (b)(2) shall be distributed to the County Aid Fund for distribution by the Treasurer of State to the county treasurer of the county to which the moneys are to be distributed.

(ii) Except as provided under subdivision (b)(2)(C)(iii) of this section, on receipt of the moneys under this subdivision (b)(2)(C), the county treasurer of the county shall distribute the moneys to the county general fund and to the respective cities, towns, school districts, community college districts, and county and municipal libraries in the county in the proportion that each taxing unit shares in the real and personal property taxes collected in the county.

(iii) A school district in the county that receives a distribution of funds under subdivisions (b)(2)(A) and (B) of this section and the county road fund that receives a distribution of funds under subdivisions (b)(2)(A) and (B) of this section are not entitled to receive an additional distribution of the funds under this subdivision (b)(2)(C).

History. Acts 1983, No. 921, §§ 1, 2; A.S.A. 1947, §§ 13-706.1, 13-706.2; Acts 1999, No. 1318, § 5; 2009, No. 1476, § 2.

Amendments. The 2009 amendment

deleted “other than military” at the end of the section heading; and rewrote the section.

19-7-802. [Repealed.]

Publisher’s Notes. This section, concerning temporary permits, was repealed by Acts 2009, No. 1476, § 3. The section

was derived from Acts 1983, No. 157, §§ 1, 2; A.S.A. 1947, §§ 13-752, 13-753; Acts 1999, No. 1318, § 6.

CHAPTER 8

DEPOSITORIES FOR PUBLIC FUNDS

SUBCHAPTER.

1. GENERAL PROVISIONS.
3. LOCAL GOVERNMENT JOINT INVESTMENT TRUST ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 19-8-104. Investment of public funds.
19-8-106. Depository boards.
19-8-107. Depository agreements.

SECTION.

- 19-8-111. Additional authority for investment of public funds.

Effective Dates. Acts 2013, No. 458, § 2: Mar. 21, 2013. Emergency clause pro-

vided: “It is found and determined by the General Assembly of the State of Arkan-

sas that the limitations on the investment of public funds have resulted in economic harm to Arkansas; that the limitation on investment of public funds creates inflexibility and potential loss of investment funds; and that this act is immediately necessary to provide greater flexibility in the options available for investment of public funds. Therefore, an emergency is declared to exist, and this act being imme-

diately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-8-104. Investment of public funds.

(a) Except as provided in subsection (b) of this section, all public funds as defined in § 19-8-101 shall be deposited into banks located in the state.

(b) A school district may seek a hardship waiver from the Legislative Joint Auditing Committee from this section and deposit public funds into an out-of-state bank if:

(1) The school district is designated as an isolated school district under §§ 6-20-601 and 6-20-602;

(2) The school district lies on the borders of the state line;

(3) The nearest Arkansas bank is located at least eighteen (18) miles from the administrative offices of the district;

(4) The administrative offices of the district are located within six (6) miles from an out-of-state bank; and

(5) The out-of-state bank meets all other requirements concerning collateralization of state funds.

History. Acts 1935, No. 21, § 5; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1991, No. 459, § 1; 1995, No. 770, § 1; 2011, No. 629, § 2.

Amendments. The 2011 amendment, in (a), substituted "subsection (b)" for

"subsections (b) and (c)" and "state" for "State of Arkansas"; in (b), substituted "public funds" for "state funds" and "if" for "under the following conditions"; and deleted (c).

19-8-106. Depository boards.

(a)(1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and shall also designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

(b)(1) Except as provided in subdivision (b)(2) of this section, the following persons shall constitute a three-member board to designate depositories and supervise the depositing of municipal funds:

(A) A mayor;

(B) A city clerk or recorder or clerk-treasurer or recorder-treasurer; and

(C) A city council member selected by the city council.

(2) Although the board shall not total more than three (3) members, the city council may replace one (1) of the three (3) board members listed in subdivision (b)(1) of this section with the city finance officer or other official.

(3) A majority of the board members shall be necessary to conduct business and to constitute a quorum.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

History. Acts 1935, No. 21, § 2; Pope's Dig., § 4328; Acts 1945, No. 57, § 1; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1987, No. 250, § 1; 2011, No. 619, § 1.

Amendments. The 2011 amendment rewrote (b).

19-8-107. Depository agreements.

(a)(1) After the receipt from the Bank Commissioner of the list of banks or banking institutions and recommended amounts of public funds each may accept, the depository boards shall:

(A) Designate the banks or banking institutions into which the funds shall be deposited; and

(B) With each bank or banking institution designated under subdivision (a)(1)(A) of this section, enter into a depository agreement and any supplemental agreements under subsection (c) of this section needed to perfect security of public deposits not fully insured directly by the United States.

(2) The depository boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner as being eligible as a depository of public funds under the laws of this state. The certificate shall contain the recommended amount of public funds the bank may accept.

(3) All depository agreements shall continue in full force until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board.

(b)(1) The treasurers or other public officials or other persons having custody of these funds shall deposit them into the designated depositories.

(2) The depositing of these funds into the designated depositories shall relieve the public officer or other person and his or her sureties from any liability for the loss of the funds by reason of the default or insolvency of any depository.

(3) County officials shall make timely deposit and investment of public funds to earn optimum interest consistent with the prudent investor rule defined by Arkansas law.

(c)(1) County and municipal officials shall:

(A) Require security for the deposit of public funds in the form of a demand deposit, a savings deposit, or a time deposit for amounts not fully insured directly by the United States; and

(B) Enter into supplemental agreements with each depository banking institution that satisfy the requirements of this subsection.

(2)(A) The State Board of Finance shall make available upon request to any county or municipality sample depository agreement forms and any necessary supplemental agreement forms required for collateralizing public funds.

(B) The forms shall include language necessary to create an enforceable perfected security interest in all collateral for deposits.

(3) Depository boards and banks or banking institutions giving or holding collateral for deposits of public funds shall comply with federal laws and regulations so that the governmental entity or political subdivision depositing public funds holds a valid claim in deposits and collateral given for those deposits against, and prevent avoidance of such a claim by, the Federal Deposit Insurance Corporation or its successor or any similar deposit insurance agency acting as receiver, conservator, or in any other capacity.

(4) All security required under this subsection shall meet the requirements of an eligible security under §§ 19-8-203 and 23-47-203(c).

(5) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need to make an informed decision, including without limitation quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios.

History. Acts 1935, No. 21, § 3; Pope's Dig., § 4329; Acts 1945, No. 62, § 1; 1947, No. 122, § 1; 1964 (1st Ex. Sess.), No. 18, § 1; A.S.A. 1947, § 13-803; Acts 1987, No. 250, §§ 2, 3; 1995, No. 232, § 9; 2003, No. 68, §§ 1, 2; 2011, No. 619, § 2; 2013, No. 405, § 1.

Amendments. The 2011 amendment, in (a)(2), inserted "depository" and deleted

"upon request therefor" following "commissioner"; inserted "and municipal" in (a)(3)(A); substituted "create an enforceable" for "achieve a" in (a)(3)(B); inserted (a)(3)(C); substituted "prudent investor" for "prudent man" in (c)(3); and inserted "and municipal" in (d)(1).

The 2013 amendment rewrote the section.

19-8-111. Additional authority for investment of public funds.

(a) Notwithstanding any law to the contrary, including §§ 19-8-103 and 19-8-105, the state or local government and any trusts established under the Local Government Joint Investment Trust Act, § 19-8-301 et seq., may invest public funds through an eligible bank under § 19-8-105 if:

(1) The bank arranges for the deposit of all or a portion of the funds into one (1) or more banks or savings and loan associations located inside the United States for the account of the state or local government or trust;

(2) Each deposit is insured by the Federal Deposit Insurance Corporation for one hundred percent (100%) of the principal and accrued interest of the deposit;

(3) The bank acts as custodian of the deposits made for the account of the state or local government or trust and, as custodian, is charged with the care of the deposits and their segregation in appropriate records reflecting the total principal amount of the deposits for each custodial account; and

(4) On the date the funds are deposited according to subdivision (a)(1) of this section, the bank receives an amount of deposits from customers of other financial institutions located inside the United States that is equal to or greater than the amount of the funds invested by the state or local government or trust.

(b) For any investment of public funds under this section, the provisions of §§ 19-8-106 and 19-8-107 apply only to the eligible bank selected under subsection (a) of this section.

(c) Additional security shall not be required for investments of public funds under this section.

(d) As used in this section, “local government” means any city, county, town, or other political subdivision of the State of Arkansas, including, but not limited to, any:

- (1) School district or community college district;
- (2) Improvement or other taxing or assessing district;
- (3) Department, instrumentality, or agency of any city, county, or other political subdivision, including, but not limited to, any local fire and police pension or relief funds; and
- (4) Local government association as defined in § 19-8-303.

History. Acts 2005, No. 86, § 1; 2013, No. 458, § 1.

Amendments. The 2013 amendment in the introductory language of (a), deleted “but not limited to,” following “including” and substituted “established” for “created” following “trusts”; in (a)(1), inserted “into” and deleted “in certificates of deposit in” following “funds” and substituted “inside” for “within” following “located”; in (a)(2), deleted “certificate of”

preceding “deposit” twice; in (a)(3), substituted “deposits made” for “certificates of deposit issued” and substituted “deposits” for “certificates of deposit” twice; in (a)(4), substituted “On the date” for “At the time,” substituted “according to subdivision (a)(1) of this section” for “and the certificates of deposit are issued,” and substituted “inside” for “in” following “located.”

SUBCHAPTER 3 — LOCAL GOVERNMENT JOINT INVESTMENT TRUST ACT

SECTION.

19-8-304. Creation of trusts.

19-8-305. Terms of trust agreement.

SECTION.

19-8-308. Authorized common trust fund investments.

19-8-304. Creation of trusts.

(a) Ten (10) or more local governments may create a trust under this subchapter by ordinance, resolution, or otherwise pursuant to law of their governing bodies to provide for the joint investment of moneys not currently needed by the local governments creating the trust and by other local governments that become parties to the trust.

(b) Each trust shall be created by trust agreement.

(c) Following the creation of a trust agreement, other local governments may become parties to the trust agreement with appropriate action taken by the local depository board, board of directors of a school district, or other authorized party responsible for decisions related to bank deposits and investments.

History. Acts 1993, No. 583, § 4; 2013, No. 217, § 1.

Amendments. The 2013 amendment rewrote (a) and (c).

19-8-305. Terms of trust agreement.

(a) Each trust agreement shall specify the following:

(1) Its duration;

(2)(A) The number, qualifications, method of election, and terms of the trustees who shall serve as the governing body of the trust.

(B)(i) Each trust shall have a minimum of seven (7) trustees.

(ii) Only current elected officials and active or retired employees of a local government or of a local government association may serve as trustees.

(iii) A majority of the trustees must be officials or employees of participants.

(C)(i) Each trustee shall be elected by the participants for a term not to exceed three (3) years.

(ii) The terms of office shall be staggered so that at least one-third ($\frac{1}{3}$) of the trustees are elected each year.

(D) Each participant shall be entitled to one (1) vote in each election of trustees;

(3) The qualifications, terms, and conditions necessary for additional local governments to become parties to the trust;

(4) The terms and conditions under which local governments may withdraw as parties to the trust; provided, that any party shall have the unconditional right to withdraw upon not more than ninety (90) days' notice;

(5) The permissible methods for acquiring, holding, and disposing of real and personal property used in the operation of the trust;

(6) The maximum amount of funds of participants the trust may accept for investment;

(7) The permissible methods to be employed in accomplishing the partial or complete termination of the trust and for disposing of property upon the partial or complete termination;

(8) The terms and conditions under which the trust agreement may be amended and supplemented; and

(9) Any other necessary and proper matters.

(b) Each addition of a local government as a party to a trust, each withdrawal of a local government as a party to a trust, and each amendment or supplement to a trust agreement shall be evidenced by a written supplement to the trust agreement.

History. Acts 1993, No. 583, § 5; 2009, No. 417, § 1.

Amendments. The 2009 amendment, in (a)(2)(B), substituted “current elected

officials and active or retired” for “full-time” and “local government” for “participant” in (a)(2)(B)(ii), and inserted “officials or” in (a)(2)(B)(iii).

19-8-308. Authorized common trust fund investments.

A trust created under this subchapter may invest moneys held for the credit of a common trust fund in the same manner as cities under §§ 19-1-504 and 19-1-505 and according to the investment policy adopted by the board of directors of the trust.

History. Acts 1993, No. 583, § 8; 2011, No. 629, § 3.

Amendments. The 2011 amendment rewrote the section.

CHAPTER 10

CLAIMS AGAINST THE STATE

SUBCHAPTER.

2. ARKANSAS STATE CLAIMS COMMISSION.
3. EFFECT OF INSURANCE COVERAGE.
4. WORKERS' COMPENSATION COMMISSION.

SUBCHAPTER 2 — ARKANSAS STATE CLAIMS COMMISSION

SECTION.

- 19-10-204. Jurisdiction.
19-10-212. Reports of state agency liability.

SECTION.

- 19-10-215. Restrictions on awards.

Effective Dates. Acts 2009, No. 437, § 7: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2009 is essential to the operation of the agency for which the appropriations in this Act are provided,

and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2009 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 2009.”

Acts 2011, No. 320, § 25: Mar. 17, 2011. Emergency clause provided: “It is found and determined by the General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the state would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2013, No. 147, § 20: Feb. 26, 2013. Emergency clause provided: “It is found and determined by the General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the state would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

19-10-204. Jurisdiction.

(a) Except as otherwise provided by law, the Arkansas State Claims Commission shall have exclusive jurisdiction over all claims against the State of Arkansas and its several agencies, departments, and institutions, but shall have no jurisdiction of claims against municipalities, counties, school districts, or any other political subdivisions of the state.

(b)(1)(A)(i) The commission shall have no jurisdiction of, or authority with respect to, claims arising under:

(a) The Workers’ Compensation Law, § 11-9-101 et seq.;

(b) The Department of Workforce Services Law, § 11-10-101 et seq.;

(c) The Arkansas Teacher Retirement System Act, § 24-7-201 et seq.;

(d) The Arkansas Public Employees’ Retirement System Act, § 24-4-101 et seq.;

(e) The State Police Retirement System Act, § 24-6-201 et seq.; or

(f) Laws providing for old age assistance grants, child welfare grants, blind pensions, or any laws of a similar nature.

(ii) Additionally, the commission shall have no jurisdiction over claims against the state for repayment of child support, except in cases where the underlying support order is set aside as void ab initio by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child.

(iii) The commission shall have no jurisdiction over:

(a) A claim by a member of the uniformed armed services against the State Military Department, the State Militia, or any subdivision thereof, if the claim arises out of the performance of the claimant's military duty;

(b) Claims against the Department of Community Correction for acts committed by a person while that person is subject to conditions of parole or probation under Arkansas law;

(c) Claims against the Department of Correction for acts committed by inmates while on authorized release from the Department of Correction; or

(d) Claims against the Division of Youth Services of the Department of Human Services for acts committed by juveniles released by the division, whether or not the juvenile is subject to conditions of aftercare or probation.

(B) Claims solely addressing the receipting, processing, and reissuance of child support payments through the Arkansas child support clearinghouse shall remain within the jurisdiction of the commission.

(2)(A) The commission shall have jurisdiction only over those claims which are barred by the doctrine of sovereign immunity from being litigated in a court of general jurisdiction.

(B) The commission shall have no jurisdiction over claims for state tax refunds under § 26-18-507, claims challenging tax assessments under § 26-18-406, and claims challenging tax laws under Arkansas Constitution, Article 16, § 13.

(3)(A) The commission shall make no award for any claim which, as a matter of law, would be dismissed from a court of law or equity for reasons other than sovereign immunity.

(B) Specifically, if the facts of a given claim would cause the claim to be dismissed as a matter of law from a court of general jurisdiction, then the commission shall make no award on the claim.

(c) The commission shall have jurisdiction over actions to contest eligibility, qualification, or election to serve as a member of the House of Representatives for the purpose of making a nonbinding recommendation thereon to that chamber of the General Assembly.

(d) The commission shall have jurisdiction over claims to recover reasonable attorney's fees and other litigation expenses reasonably incurred by plaintiffs who substantially prevailed in actions under § 25-19-107 against the State of Arkansas or a department, agency, or institution of the state under the standard described in § 25-19-107(d)(1).

History. Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1991, No. 1014, § 2; 1997, No. 1298, § 1; 2001, No. 1625, § 1; 2003, No. 1282, § 1; 2003, No. 1468, § 1; 2009, No. 440, § 1; 2013, No. 1478, § 1.

Amendments. The 2009 amendment added (d).

The 2013 amendment added (b)(1)(A)(iii)(d).

19-10-212. Reports of state agency liability.

(a)(1) As used in this section, “state agency” means a department, office, board, commission, or institution of this state, including a state-supported institution of higher education.

(2) When a state agency admits liability to a claim filed with the Arkansas State Claims Commission, the state agency shall file a written report of the claim with the Litigation Reports Oversight Subcommittee of the Legislative Council if the claim:

(A) Involves a contract with the state agency; or

(B) Exceeds fifteen thousand dollars (\$15,000).

(3) The state agency shall include in its report a concise statement of facts with an explanation of the state agency’s liability.

(4) The state agency shall file its report within thirty (30) days after the claim has been adjudicated by the Arkansas State Claims Commission.

(b) The Arkansas Lottery Commission shall file its report under subsection (a) of this section with the Arkansas Lottery Commission Legislative Oversight Committee.

History. Acts 1997, No. 850, § 30; 2005, No. 1962, § 89; 2013, No. 147, § 17; 2013, No. 1131, § 2.

A.C.R.C. Notes. Acts 2011, No. 320, § 22, provided: “It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds twelve thousand five hundred dollars (\$12,500) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Legislative Council. Such a report shall include a concise statement of facts with an explanation of the agency’s liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission.”

Acts 2012, No. 153, § 15, provided: “CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds twelve

thousand five hundred dollars (\$12,500) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Arkansas Legislative Council. Such report shall include a concise statement of facts with an explanation of the agency’s liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission.”

Acts 2012, No. 259, § 14, provided: “CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds twelve thousand five hundred dollars (\$12,500) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Arkansas Legislative Council. Such report shall include a concise statement of facts with an explanation of the agency’s liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission.”

Amendments. The 2013 amendment by No. 147 substituted “fifteen thousand dollars (\$15,000)” for “ten thousand dollars (\$10,000)” in (a).

The 2013 amendment by No. 1131 rewrote the section.

19-10-213. Agency to pay claim.

A.C.R.C. Notes. Acts 2013, No. 58, § 4, provided: “EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Acts 2013, No. 879, § 19, provided: “ARKANSAS DEPARTMENT OF HUMAN SERVICES CLAIMS. For any claims in this Act appropriated to the Department of Human Services, the Clerk of the State Claims Commission shall consult with the Department of Human Services and the Chief Fiscal Officer of the State to determine the division and funds to which liability should be assigned and from which the warrants shall be drawn. The Clerk of the State Claims Commission shall initiate the appropriate transfers as may be required and as approved by the Chief Fiscal Officer of the State.”

Acts 2013, No. 879, § 20, provided: “ARKANSAS DEPARTMENT OF HUMAN SERVICES CLAIMS. For any claims in this Act appropriated to the Department of Health, the Clerk of the State Claims Commission shall consult with the De-

partment of Health and the Chief Fiscal Officer of the State to determine the division and funds to which liability should be assigned and from which the warrants shall be drawn. The Clerk of the State Claims Commission shall initiate the appropriate transfers as may be required and as approved by the Chief Fiscal Officer of the State.”

Acts 2013, No. 879, § 21, provided: “CLAIMS FROM CASH FUNDS. In the event that any claim authorized herein is determined to be a valid claim against the State and the claim is to be paid from funds not in the State Treasury, the Clerk of the State Claims Commission shall notify the agency against which the claim is to be charged of the amount of such claims. Upon receipt of such notification, the state agency shall forth-with deliver a check to the Clerk of the State Claims Commission who shall deposit the same as a nonrevenue receipt into the Miscellaneous Revolving Fund from which he shall disburse the amount of the claim to the claimant.”

Acts 2013, No. 879, § 22, provided: “EMPLOYMENT COMPENSATION CLAIMS. The Clerk of the State Claims Commission shall not distribute any warrants prepared under the provisions of this Act for awards made by the Arkansas State Claims Commission for employment compensation claims. Upon the award by the State Claims Commission of an employment compensation claim, the Clerk of the State Claims Commission shall notify the affected state agency and the Department of Finance and Administration — Office of Personnel Management of such amounts that are due and payable. The affected state agency shall then process the award through the State Mechanized Payroll System.”

19-10-215. Restrictions on awards.

(a) With the exception of death and disability benefit claims paid under § 21-5-701 et seq., no award may be paid in excess of fifteen thousand dollars (\$15,000).

(b) If the award is greater than fifteen thousand dollars (\$15,000), the claim shall be referred to the General Assembly for an appropriation.

History. Acts 1999, No. 1141, § 4; 2003, No. 926, § 4; 2011, No. 320, § 16; 2013, No. 147, § 11.

Amendments. The 2011 amendment substituted “twelve thousand five hundred dollars (\$12,500)” for “ten thousand dollars (\$10,000)” in (a) and (b).

The 2013 amendment substituted “fifteen thousand dollars (\$15,000)” for “twelve thousand five hundred dollars (\$12,500)” in (a) and (b).

SUBCHAPTER 3 — EFFECT OF INSURANCE COVERAGE

SECTION.

19-10-305. Immunity of state officers and

employees — Status as employee.

19-10-305. Immunity of state officers and employees — Status as employee.

(a) Officers and employees of the State of Arkansas are immune from liability and from suit, except to the extent that they may be covered by liability insurance, for damages for acts or omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.

(b) For purposes of this chapter, agreements between the State of Arkansas and a state of the United States or the District of Columbia entered into pursuant to the Interlocal Cooperation Act, § 25-20-101 et seq., shall confer status of an employee for purposes of this chapter on persons acting pursuant to such agreement.

(c) For purposes of this chapter, persons acting individually or on behalf of charitable organizations, other than motor carriers as defined by § 23-13-203(a)(13), shall have the status of an employee while transporting persons as a service of the Transitional Employment Assistance Program.

(d) For purposes of this chapter, dental residents and faculty of a pediatric dentistry program in an adjoining state shall have the status of an employee while on duty and performing assigned responsibilities in a pediatric dentistry program located within a hospital dental clinic in this state.

History. Acts 1981, No. 586, § 5; A.S.A. 1947, § 13-1420; Acts 1989, No. 989, § 1; 1991, No. 542, § 6; 1993, No. 292, § 1; 1999, No. 1567, § 23; 2009, No. 284, § 1.

Amendments. The 2009 amendment added (d).

CASE NOTES

Employees Held Immune.

Appellees’ allegations were conclusory and did not support each cause of action appellees pled against each individually

named Arkansas Department of Environmental Quality employee; even with regard to certain emails, appellees’ pleadings amounted to bare conclusions of

malice. Ark. Dep't of Env'tl. Quality v. Al-Madhoun, 374 Ark. 28, 285 S.W.3d 654 (2008).

Because plaintiff inmates made no allegations of willful, wanton, or otherwise malicious conduct on the part of defendant prison officials, much less sufficient factual support to stave off summary judgment, the officials were entitled to summary judgment on the inmate's state law claims due to statutory immunity under subsection (a) of this section. Langford v. Norris, 614 F.3d 445 (8th Cir. 2010).

In an action by a county resident against officials of the Arkansas Game and Fish Commission, alleging that the Commission unconstitutionally entered into gas leases with private companies,

the officials were entitled to immunity under subsection (a) of this section because the resident failed to plead that the officials' acts were covered by liability insurance or that those acts were committed maliciously, or that the officials acted outside the scope of their employment in leasing the Commission's land or in utilizing the revenue from those leases. Further, the amended complaint did not seek any relief from the officials in their individual capacities. Dockery v. Morgan, 2011 Ark. 94, 380 S.W.3d 377 (2011), rehearing denied, — S.W.3d —, 2011 Ark. LEXIS 400 (Ark. Apr. 14, 2011).

Cited: Martin v. Hallum, 2010 Ark. App. 193, 374 S.W.3d 152 (2010).

SUBCHAPTER 4 — WORKERS' COMPENSATION COMMISSION

SECTION.

19-10-402. Jurisdiction and procedure.

19-10-402. Jurisdiction and procedure.

(a)(1) The Workers' Compensation Commission shall have exclusive jurisdiction, as limited in this subchapter, of all claims against the State of Arkansas and its several agencies, departments, and institutions for personal injuries and deaths of employees and officers of the State of Arkansas and its agencies, departments, and institutions arising out of and in the course of employment or service.

(2)(A) Awards for these injuries and deaths shall be made by the commission in the same amounts and on the same terms and conditions as if such injuries and deaths had arisen out of and in the course of private employment covered by the Workers' Compensation Law, § 11-9-101 et seq.

(B) The procedure to be followed in the presentation, hearing, and determination of claims shall, in all respects, be the same as in claims for compensation for injuries and deaths arising out of and in the course of private employment covered by the Workers' Compensation Law, § 11-9-101 et seq.

(b) The General Assembly shall at each session appropriate, from such sources as it may see fit, a sum sufficient to satisfy such claims as are or probably will be payable during the following fiscal year under awards made under this section. The commission shall direct the distributions of this fund and make disbursements upon the vouchers issued against it.

History. Acts 1949, No. 462, § 7; 1951, No. 373, § 3; 1963, No. 521, § 1; 1979, No. 597, § 1; A.S.A. 1947, § 13-1407; Acts 2009, No. 962, § 39.

Amendments. The 2009 amendment, in the first sentence of (b), deleted "biennial" preceding "session" and substituted "year" for "biennium."

CHAPTER 11

PURCHASING AND CONTRACTS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS PROCUREMENT LAW.
6. FEDERAL GOVERNMENT SURPLUS PROPERTY.
7. ETHICS.
9. PURCHASES OF DISABLED WORK CENTER PRODUCTS AND SERVICES.
10. PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS.
11. PURCHASE OF TECHNOLOGY SYSTEMS.
12. GUARANTEED ENERGY COST SAVINGS ACT.
13. PARTIAL EQUITY OWNERSHIP AGREEMENT EXECUTED BY A STATE RETIREMENT SYSTEM.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

19-11-105. Illegal immigrants — Prohibition — Public contracts for services.

SECTION.

19-11-106. Contracting goals for service-disabled veterans.

19-11-105. Illegal immigrants — Prohibition — Public contracts for services.

(a) As used in this section:

(1) “Contractor” means a person having a public contract with a state agency for professional services, technical and general services, or any category of construction in which the total dollar value of the contract is twenty-five thousand dollars (\$25,000) or greater;

(2) “Exempt agency” means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(3) “Illegal immigrant” means any person not a citizen of the United States who has:

(A) Entered the United States in violation of the federal Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., or regulations issued under the act;

(B) Legally entered the United States but without the right to be employed in the United States; or

(C) Legally entered the United States subject to a time limit but has remained illegally after expiration of the time limit;

(4) “Professional services contract” means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary;

(5) "Public contract for services" means any type of agreement between a state agency and a contractor for the procurement of services and all categories of construction with a state agency in which the total dollar value of that contract is twenty-five thousand dollars (\$25,000) or greater;

(6)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency under subdivision (a)(7)(B) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54; and

(7)(A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including without limitation work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.

(b) No state agency may enter into or renew a public contract for services with a contractor who knows that the contractor or a subcontractor employs or contracts with an illegal immigrant to perform work under the contract.

(c) Before executing a public contract, each prospective contractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the contractor at the time of the certification does not employ or contract with an illegal immigrant.

(d)(1) If a contractor violates this section, the state shall require the contractor to remedy the violation within sixty (60) days.

(2)(A) If the contractor does not remedy the violation within the sixty (60) days specified under subdivision (d)(1) of this section, the state shall terminate the contract for breach of the contract.

(B) If the contract is terminated under subdivision (d)(2)(A) of this section, the contractor shall be liable to the state for actual damages.

(e)(1)(A) If a contractor uses a subcontractor at the time of certification, the subcontractor shall certify in a manner that does not violate

federal law in existence on January 1, 2007, that the subcontractor at that time of certification does not employ or contract with an illegal immigrant.

(B) A subcontractor shall submit the certification required under subdivision (e)(1)(A) of this section within thirty (30) days after the execution of the subcontract.

(2) The contractor shall maintain on file the certification of the subcontractor throughout the duration of the term of the contract.

(3) If the contractor learns that a subcontractor is in violation of this section, the contractor may terminate the contract with the subcontractor, and the termination of the contract for a violation of this section shall not be considered a breach of the contract by the contractor and subcontractor.

History. Acts 2007, No. 157, § 1; 2009, No. 251, § 27.

U.S.C. 1101 et seq.” for “Naturalization” in (a)(3)(A), and made related and minor stylistic changes.

Amendments. The 2009 amendment substituted “Nationality Act of 1952, 8

19-11-106. Contracting goals for service-disabled veterans.

(a) As used in this section:

(1) “Service-disabled veteran” means any individual who:

(A) Is at least thirty-percent (30%) disabled as a result of military service and is designated as such by the United States Department of Veterans Affairs; and

(B) Has been a resident of the State of Arkansas for at least two (2) years; and

(2) “Business of a service-disabled veteran” means a business that:

(A) Not less than fifty-one percent (51%) of which is owned by one (1) or more service-disabled veterans;

(B) The management and daily business operations of which are controlled by one (1) or more service-disabled veterans; and

(C) Has been certified as a business of a service-disabled veteran by the Division of Minority Business Enterprise of the Arkansas Economic Development Commission under the Minority Business Economic Development Act, § 15-4-301 et seq.

(b)(1) All state agencies shall attempt to ensure that five percent (5%) of the total amount expended in state-funded and state-directed public construction programs and in the purchase of goods and services for the state each fiscal year is paid to businesses of service-disabled veterans.

(2) This subsection shall not be construed as establishing a preference in contracting with businesses of service-disabled veterans.

History. Acts 2011, No. 882, § 1.

SUBCHAPTER 2 — ARKANSAS PROCUREMENT LAW

SECTION.

- 19-11-203. Definitions generally.
- 19-11-204. Definitions concerning source selection and contract formation.
- 19-11-220. Agency procurement officials.
- 19-11-229. Competitive sealed bidding.
- 19-11-234. Competitive bidding.

SECTION.

- 19-11-242. Commodity management regulations.
- 19-11-244. Resolution of protested solicitations and awards.
- 19-11-265. Submission of contracts required.

Effective Dates. Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be implemented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1211, § 3: Apr. 7, 2009. Emergency clause provided "It is found and determined by the General Assembly of the State of Arkansas that a partial equity ownership agreement is fundamentally and substantially different than a state contract for commodities, technical and general services, and professional and consultant services that are procured under the Arkansas Procurement Law § 19-11-201 et seq., and other contracts currently procured under Arkansas Code, Title 19, Chapter 11; that frugal invest-

ment practices often require a minimum duration of ten (10) years or more for the interest to mature; that a partial equity ownership agreement is necessary for certain size trust funds to fulfill the requirements of the prudent investor rule; that a partial equity ownership agreement should be subject to a procurement process that is unique to the partial equity ownership agreement; that currently there is a lack of clarification in the law regarding a proper review process for partial equity ownership agreements; and that this new section will resolve the issue with the intent to preserve the review process for a partial equity ownership agreement and allow flexibility in the review for a narrow and clearly defined exception. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1393, § 9: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law which have changed or created various revenues collected by the State, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees and other revenues levied and collected for the support of and use by State Government as they currently exist and from which appropria-

tions which become effective July 1, 2013 have been made by the Eighty-Ninth General Assembly. Therefore, an emergency is declared to exist and this act being imme-

diately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

19-11-203. Definitions generally.

As used in this subchapter:

(1)(A) "Agency procurement official" means any person authorized by a state agency to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter and the regulations promulgated under it.

(B) "Agency procurement official" also includes an authorized representative acting within the limits of authority;

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;

(3)(A) "Capital improvement" means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appurtenant improvements, existing or future, and all construction, repairs, alterations, and renovations thereof which are undertaken, owned, operated, or otherwise managed by a state agency.

(B) "Capital improvement" shall not include construction and reconstruction of roads and bridges in the state highway system by the State Highway Commission, nor shall "capital improvement" include any building, facility, plant, structure, or other improvement constructed by, or in behalf of, the Arkansas State Highway and Transportation Department or the State Highway Commission;

(4) "Commodities" means all property, including, but not limited to, equipment, printing, stationery, supplies, and insurance, but excluding leases on real property, real property, or a permanent interest in real property, exempt commodities and services, and capital improvements;

(5)(A) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

(B)(i) "Contract" includes awards and notices of award, contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type, contracts providing for the issuance of job or task orders, leases, letter contracts, and purchase orders.

(ii) "Contract" also includes supplemental agreements with respect to any of these items.

(iii) "Contract" does not include a partial equity ownership agreement as defined under § 19-11-1301 et seq.;

(6) "Contract modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, price,

quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract;

(7) "Contractor" means any person having a contract with a state agency;

(8) "Data" means recorded information, regardless of form or characteristic;

(9) "Debarment" means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the state for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance;

(10) "Designee" means a duly authorized representative of a person holding a superior position;

(11) "Electronic" means electrical, digital, magnetic, optical, or any other similar technology;

(12) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any agency;

(13) "Exempt agencies" means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(14) "Exempt commodities and services" means:

(A) Advertising in newspapers, periodicals, and related publications and on television, radio, billboards, and electronic media;

(B) Animals procured for medical research;

(C)(i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease, which may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available.

(ii) A report shall be filed annually with the Division of Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;

(D)(i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.

(ii) However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures;

(E)(i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.

(ii) These contract exemptions shall not extend to the procurement of any commodities not otherwise exempt that are to be furnished by the agency under any such contract;

(F) Contracts awarded by the Arkansas State Highway and Transportation Department for the construction, reconstruction, and main-

tenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;

(G)(i) Farm products procured or sold by a state agency having an agency procurement official.

(ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold;

(H) Fees, including medical fees and physician fees;

(I) Foster care maintenance services provided by foster family homes approved by the Division of Children and Family Services of the Department of Human Services for children whose placement and care are the responsibility of the Division of Children and Family Services of the Department of Human Services;

(J) Freight and storage charges and demurrage;

(K) Licenses required prior to performance of services;

(L)(i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.

(ii) Such procurement will be reported to the State Procurement Director, giving details of the purchase;

(M) Livestock procured for breeding, research, or experimental purposes;

(N) Maintenance on office machines and technical equipment;

(O) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;

(P) Membership in professional, trade, and other similar associations;

(Q) Perishable foodstuffs for immediate use or processing;

(R) Postage;

(S) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials;

(T) Services of visiting speakers, lecturers, and performing artists;

(U) Taxes;

(V) Travel expense items such as room and board and transportation charges;

(W) Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;

(X) Works of art for museum and public display;

(Y) Capital improvements valued at less than twenty thousand dollars (\$20,000), subject to minimum standards and criteria of the Arkansas Building Authority;

(Z) Services related to work force development, incumbent work force training, or specialized business or industry training;

(AA) Major procurement contracts of the Arkansas Lottery Commission under § 23-115-103;

(BB) The following commodities and services relating to proprietary software after the initial procurement:

- (i) Technical support;
- (ii) Renewals;
- (iii) Additional copies; and
- (iv) License upgrades;

(CC) Commodities and raw materials purchased by Arkansas Correctional Industries intended for use in goods for resale;

(DD) Commodities purchased by the Department of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals; and

(EE) Repair services for hidden or unknown damages to machinery already purchased;

(15)(A)(i) "Grant" means the furnishing by the state of assistance, whether financial or otherwise, to any person to support a program authorized by law.

(ii) "Grant" does not include an award the primary purpose of which is to procure an end product, whether in the form of commodities or services.

(B) A contract resulting from such an award is not a grant but a procurement contract;

(16) "May" means the permissive;

(17) "Paper product" means any item manufactured from paper or paperboard;

(18) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;

(19) "Political subdivisions" means counties, municipalities, and school districts;

(20)(A) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.

(B) "Procurement" also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, disposal of commodities, and all phases of contract administration;

(21) "Procurement agency" means any state agency that is authorized by this subchapter, by implementing regulations, or by way of delegation from the State Procurement Director to contract on its own behalf rather than through the central contracting authority of the State Procurement Director;

(22)(A) "Procurement agent" means any person authorized by a state agency not having an agency procurement official to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter.

(B) "Procurement agent" also includes an authorized representative acting within the limits of authority;

(23)(A) "Public funds" means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling. "Public funds" as used in this subchapter shall not include funds administered by, or under the control of, agencies, except public funds.

(B) Without necessarily being limited thereto, "public funds" does not include grants, donations, research contracts, and revenues derived from self-supporting enterprises which are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury;

(24) "Public notice" means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation, electronic or paper mailing lists, and websites designated by the State of Arkansas and maintained for that purpose;

(25)(A) "Purchase request" means that document, written or electronic, in which a using agency requests that a contract be obtained for a specified need.

(B) "Purchase request" may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written or electronic determination and finding required by this subchapter;

(26) "Recycled paper" means paper which contains recycled fiber in a proportion specified by the State Procurement Director;

(27)(A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Arkansas Building Authority or higher education;

(28) "Shall" means the imperative;

(29) "Signature" means a manual, an electronic, or a digital method executed or adopted by a party with the intent to be bound by or to authenticate a record which is:

(A) Unique to the person using it;

(B) Capable of verification;

(C) Under the sole control of the person using it; and

(D) Linked to data in such a manner that if the data are changed, the electronic signature is invalidated;

(30)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency pursuant to subdivision (13) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;

(31)(A) “State contract” means a contract for the procurement of commodities or services in volume, awarded by the State Procurement Director.

(B) The contract may apply to all or part of the state;

(32) “State Procurement Director” means the person holding the position created in § 19-11-216, as the head of the Office of State Procurement;

(33) “Suspension” means the disqualification of a person to receive invitations for bids, requests for proposals, or the award of a contract by the state for a temporary period pending the completion of an investigation and any legal proceedings that may ensue because a person is suspected upon probable cause of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance, which may lead to debarment;

(34)(A) “Technical and general services” means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise, in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including, but not limited to, work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) “Technical and general services” shall not be construed to include the procurement of professional services under § 19-11-801 et seq.;

(35) “Using agency” means any state agency which utilizes any commodities or services purchased under this subchapter; and

(36) “Written” or “in writing” means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

History. Acts 1979, No. 482, § 12; 1981, No. 600, §§ 1-5; A.S.A. 1947, § 14-240; Acts 1987, No. 983, § 1; 1991, No. 128, § 1; 1991, No. 749, § 2; 1991, No. 1018, § 1; 1999, No. 1398, § 27; 2001, No. 961, § 7; 2001 No. 1237, § 2; 2001 No. 1568, § 1; 2003, No. 487, § 1; 2003, No. 1315, §§ 4-7; 2005, No. 1680, § 1; 2007, No. 478, § 2; 2009, No. 251, § 28; 2009, No. 605, § 20; 2009, No. 606, § 20; 2009, No. 1211, § 1; 2011, No. 794, § 1; 2013, No. 453, § 1.

Amendments. The 2009 amendment

by No. 251 deleted (14)(E) and redesignated the subsequent subdivisions accordingly.

The 2009 amendment by identical acts Nos. 605 and 606 inserted (14)(AA) and made related changes.

The 2009 amendment by No. 1211 inserted (5)(B)(iii) and made a related change.

The 2011 amendment added (14)(BB).

The 2013 amendment added (14)(CC) through (14)(EE).

19-11-204. Definitions concerning source selection and contract formation.

As used in this subchapter:

(1) "Competitive bidding" means the same as defined in § 19-11-234(a);

(2) "Competitive sealed bidding" means the same as defined in § 19-11-229(a);

(3) "Competitive sealed proposals" means the same as defined in § 19-11-230(a);

(4) "Emergency procurement" means the acquisition of commodities or services, which if not immediately initiated, will endanger human life or health, state property, or the functional capability of a state agency;

(5) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(A) Is regularly maintained by a manufacturer or contractor;

(B) Is either published or otherwise available for inspection by customers; and

(C) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the commodities or services involved;

(6) "Invitation for bids" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in § 19-11-229, which refers to competitive sealed bidding;

(7) "Multiple award contracts" means a method of procurement whereby an indefinite quantity contract is awarded to more than one (1) supplier for furnishing a like item or category of items;

(8) "Purchase description" means specifications or any other document or electronic media describing the commodities or services to be procured;

(9) "Request for proposals" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in § 19-11-230, which refers to competitive sealed proposals, § 19-11-231, which refers to small procurements, § 19-11-232, which refers to proprietary or sole source procurements, § 19-11-233, which refers to emergency procurements, or § 19-11-234, which refers to competitive bidding;

(10)(A) "Request for qualifications" means a solicitation document requiring submittal of qualifications or specialized expertise in response to the scope of work or services required and does not require pricing.

(B) Other than as provided in § 19-11-801 et seq., the request for qualifications process may only be used when, under rules promulgated by the State Procurement Director, the director determines in writing that the request for qualifications process is warranted;

(11) “Responsible bidder or offeror” means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance;

(12) “Responsive bidder” means a person who has submitted a bid under § 19-11-229, which refers to competitive sealed bidding, which conforms in all material respects to the invitation for bids, including the specifications set forth in the invitation; and

(13)(A)(i) “Small procurements” means any procurement not exceeding a purchase price of ten thousand dollars (\$10,000). Small purchases may be procured without seeking competitive bids or competitive sealed bids.

(ii) However, competition should be used to the maximum extent practicable.

(B) Items under state contract are excluded.

History. Acts 1979, No. 482, § 27; 1981, No. 600, § 11; A.S.A. 1947, § 14-252; Acts 1987, No. 540, § 1; 1995, No. 317, § 1; 1995, No. 340, § 1; 1995, No. 428, § 1; 1995, No. 507, § 1; 2001, No. 1237, § 3; 2007, No. 478, § 3; 2013, No. 1189, § 1.

Amendments. The 2013 amendment substituted “ten thousand dollars (\$10,000)” for “five thousand dollars (\$5,000)” in (13)(A)(i).

19-11-220. Agency procurement officials.

(a) In addition to any state agency authorized by regulation to have an agency procurement official, each of the following state agencies may elect to have such an official for commodities, technical and general services, and professional and consultant services, which are not within the exclusive jurisdiction of the State Procurement Director and which are not under state contract:

- (1) Arkansas State Highway and Transportation Department;
- (2) Arkansas Lottery Commission;
- (3) Arkansas State University-Beebe;
- (4) Arkansas State University;
- (5) Arkansas State University System;
- (6) Arkansas Tech University;
- (7) Henderson State University;
- (8) Southern Arkansas University;
- (9) University of Arkansas at Fayetteville;
- (10) University of Arkansas Fund entities;
- (11) University of Arkansas at Little Rock;
- (12) University of Arkansas at Monticello;
- (13) University of Arkansas at Pine Bluff;
- (14) University of Arkansas for Medical Sciences;
- (15) University of Central Arkansas;
- (16) Arkansas State University-Mountain Home;
- (17) Arkansas State University-Newport;
- (18) Black River Technical College;
- (19) Cossatot Community College of the University of Arkansas;

- (20) East Arkansas Community College;
- (21) National Park Community College;
- (22) Arkansas Northeastern College;
- (23) Mid-South Community College;
- (24) North Arkansas College;
- (25) Northwest Arkansas Community College;
- (26) College of The Ouachitas;
- (27) Ozarka College;
- (28) Phillips Community College of the University of Arkansas;
- (29) University of Arkansas Community College at Morrilton;
- (30) Pulaski Technical College;
- (31) Rich Mountain Community College;
- (32) SAU-Tech;
- (33) Southeast Arkansas College;
- (34) South Arkansas Community College;
- (35) University of Arkansas Community College at Batesville;
- (36) University of Arkansas Community College at Hope;
- (37) University of Arkansas at Fort Smith; and
- (38) Department of Higher Education.

(b)(1) Each official shall manage and establish internal procedures for the procurement office of the state agency authorized to have the official to ensure adequate administrative procedures and controls pursuant to law and the procurement regulations.

(2)(A) Approval by the Office of State Procurement of contracts administered by the official shall not be required, unless a determination has been made by the Director of the Department of Finance and Administration that administrative procedures and controls are not adequate.

(B)(i) Such a determination shall result in notification by the Director of the Department of Finance and Administration of the specific deficiencies and the reasons therefor.

(ii) After the notification, approval of contracts by the Office of State Procurement shall be required until the Director of the Department of Finance and Administration determines that the deficiencies have been corrected.

(c) Except for the promulgation by the State Procurement Director of rules and regulations authorized in this subchapter and the letting of state contracts, all rights and practices granted herein to the Office of State Procurement and the State Procurement Director are granted to an official in the administration of contracts for the state agency authorized to have the official.

(d) Nothing in this section is intended to prohibit a state agency from utilizing the Office of State Procurement in the same manner as state agencies not authorized to have officials.

History. Acts 1979, No. 482, § 19; 605, § 21; 2009, No. 606, § 21; 2013, No. 1981, No. 600, §§ 7, 8; A.S.A. 1947, § 14-1393, § 8.
 247; Acts 1991, No. 1018, § 3; 2001, No. 1237, § 12; 2005, No. 1680, § 2; 2009, No. **Amendments.** The 2009 amendment by identical acts Nos. 605 and 606 in-

serted (a)(2) and redesignated the subsequent subdivisions accordingly.

The 2013 amendment substituted "Col-

lege of The Ouachitas" for "Ouachita Technical College" in (a)(26).

19-11-229. Competitive sealed bidding.

(a) "Competitive sealed bidding" means a method of procurement which requires:

(1) Issuance of an invitation for bids with a purchase description and all contractual terms and conditions applicable to the procurement;

(2) Public, contemporaneous opening of bids at a predesignated time and place;

(3) Unconditional acceptance of a bid without alteration or correction, except as authorized in §§ 19-11-204 and 19-11-228 — 19-11-240;

(4) Award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids; and

(5) Public notice.

(b)(1) Contracts exceeding an estimated purchase price of fifty thousand dollars (\$50,000) shall be awarded by competitive sealed bidding unless a determination is made in writing by the agency procurement official or the State Procurement Director that this method is not practicable and advantageous and specifically states the reasons that this method is not practicable and advantageous.

(2) The director may provide by regulation that it is not practicable to procure specified types of commodities, technical and general services, or professional and consultant services by competitive sealed bidding.

(3) Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(A) Purchase descriptions are suitable for award on the basis of the lowest evaluated bid price; and

(B) The available sources, the time and place of performance, and other relevant circumstances are appropriate for the use of competitive sealed bidding.

(c) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced technical proposals to be followed by an invitation for bids limited to those bidders whose technical proposals meet the requirements set forth in the first invitation.

(d)(1) Notice inviting bids shall be given not fewer than five (5) calendar days nor more than thirty (30) calendar days preceding the date for the opening of bids by publishing the notice at least one (1) time in at least one (1) newspaper having general circulation in the state or posting by electronic media, but in all instances, adequate notice shall be given.

(2)(A) The notice shall include a general description of the commodities, technical and general services, or professional and consultant services to be procured and shall state where invitations for bid may be obtained.

(B) The notice shall also state the date, time, and place of bid opening.

(e) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

(f)(1)(A) Bids shall be evaluated based on the requirements set forth in the invitation for bids.

(B) These requirements may include criteria to determine acceptability such as:

(i) Inspection;

(ii) Testing;

(iii) Quality;

(iv) Workmanship;

(v) Delivery;

(vi) Past performance; and

(vii) Suitability for a particular purpose and criteria affecting price such as life-cycle or total ownership costs.

(2)(A) The invitation for bids shall set forth the evaluation criteria to be used.

(B) No criteria may be used in bid evaluation that were not set forth in the invitation for bids.

(g)(1) Correction of patent or provable errors in bids that do not prejudice other bidders or withdrawal of bids may be allowed only to the extent permitted under regulations promulgated by the director and upon written approval of the Attorney General or a designee of such officer.

(2) No award shall be made on the basis of a corrected bid, if the corrected bid exceeds the next lowest bid of a responsible bidder.

(h)(1) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

(2) In the event all bids exceed available funds as certified by the appropriate fiscal officer in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, the director or the head of a procurement agency may negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(3) All other bidders requesting to be notified of the award decision shall be promptly notified of the decision.

(i) An invitation for bid may be cancelled or any or all bids may be rejected in writing by the director or the agency procurement official.

History. Acts 1979, No. 482, § 29; 1981, No. 600, §§ 13-16; A.S.A. 1947, § 14-254; Acts 1987, No. 540, § 2; 1995, No. 317, § 2; 1995, No. 340, § 2; 2001, No. 1237, § 22; 2003, No. 487, § 5; 2005, No. 1680, § 6; 2013, No. 1189, § 2.

Amendments. The 2013 amendment,

in (b)(1), substituted “fifty thousand dollars (\$50,000)” for “twenty-five thousand dollars (\$25,000)” and deleted “of the Office of State Procurement of the Department of Finance and Administration” following “State Procurement Director.”

19-11-234. Competitive bidding.

(a)(1) Competitive bidding is a method of procurement which requires obtaining bids by:

(A) Direct mail request to prospective bidders and obtaining written bids;

(B) Telephone;

(C) Telegraph;

(D) Written form; or

(E) Electronic media.

(2) A competitive bid form authorized by the State Procurement Director must be completed.

(3) If three (3) competitive bids are not obtained on purchases when bids are required, the form must show the names of at least three (3) firms contacted in attempting to obtain competition or show the reason three (3) firms were not contacted.

(4)(A) Only firms which sell the type of commodity or service to be procured shall be contacted.

(B) The purchase procedures outlined in this section shall not apply to commodities, technical and general services, and professional and consultant services under state contract.

(b)(1) Contracts in which the purchase price exceeds ten thousand dollars (\$10,000) and is less than or equal to fifty thousand dollars (\$50,000) may be awarded by use of competitive bidding procedures.

(2) However, in any such instances, competitive sealed bidding is permitted.

(c)(1)(A) All procurements shall be awarded to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements, criteria, and specifications.

(B) Delivery time required must be reasonable and consonant with current industry norms.

(2) Complete justification must be given if award is made to other than the low bidder.

(d) Repeated small quantity procurements to circumvent the competitive bid limits or failure to obtain competitive bids without justification shall constitute a violation of these procedures and shall result in withdrawal of the state agency’s competitive bid privileges.

History. Acts 1979, No. 482, § 35; 1981, No. 600, § 24; A.S.A. 1947, § 14-260; Acts 1991, No. 1018, §§ 4, 5; 1995, No. 317, §§ 3, 4; 1995, No. 340, §§ 3, 4;

2001, No. 1237, § 27; 2003, No. 487, § 6; 2005, No. 1680, § 7; 2013, No. 1189, § 3.

Amendments. The 2013 amendment substituted “ten thousand dollars

(\$10,000)” for “five thousand dollars dollars (\$50,000)” for “twenty-five thousand (\$5,000)” and substituted “fifty thousand sand dollars (\$25,000)” in (b)(1).

19-11-242. Commodity management regulations.

The State Procurement Director shall promulgate regulations governing:

(1) The sale, lease, or disposal of surplus commodities by public auction, competitive sealed bidding, or other appropriate method designated by regulation, and no employee of the Department of Finance and Administration or member of the employee’s immediate family shall be entitled to purchase any such commodities;

(2) The transfer of excess commodities within the state; and

(3) The sale, lease, or disposal of surplus commodities to not-for-profit organizations under § 22-1-101.

History. Acts 1979, No. 482, § 55; **Amendments.** The 2013 amendment A.S.A. 1947, § 14-275.1; Acts 2001, No. added (3) and made stylistic changes. 1237, § 32; 2013, No. 1020, § 1.

19-11-244. Resolution of protested solicitations and awards.

(a)(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of a contract may protest by presenting a written notice at least seventy-two (72) hours before the filing deadline for the solicitation response to the State Procurement Director or the head of a procurement agency.

(2) Any actual bidder, offeror, or contractor who is aggrieved in connection with the award of a contract may protest to the:

(A) Director; or

(B) Head of a procurement agency.

(3) The protest shall be submitted in writing within fourteen (14) calendar days after the aggrieved person knows or should have known of the facts giving rise to the grievance.

(b)(1) Prior to the commencement of an action in court or any other action provided by law concerning the controversy, the director, the head of a procurement agency, or a designee of either officer may settle and resolve a protest concerning the solicitation or award of a contract.

(2) This authority shall be exercised in accordance with laws governing the Arkansas State Claims Commission and the regulations promulgated by the director.

(c)(1) If the protest is not resolved by mutual agreement, and after reasonable notice to the protestor involved and reasonable opportunity for the protestor to respond to the protest issues according to the regulations promulgated by the director, the head of a procurement agency, the director, or a designee of either officer shall promptly issue a decision in writing.

(2) The decision shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the protestor and any other party intervening.

(e) A decision under subsection (c) of this section shall be final and conclusive.

(f) In the event of a timely protest under subsection (a) of this section, the state shall not proceed further with the solicitation or with the award of the contract until the director or the head of a procurement agency makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

(g) When the protest is sustained and the successfully protesting bidder or offeror was denied the contract award, the protesting bidder or offeror may be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs, through the commission.

History. Acts 1979, No. 482, § 57; A.S.A. 1947, § 14-276; Acts 2001, No. 1237, § 34; 2003, No. 487, § 7; 2005, No. 1680, § 10; 2009, No. 677, § 1.

Amendments. The 2009 amendment, in (a), deleted “or award” following “solicitation” and inserted “by presenting a written notice at least seventy-two (72) hours

before the filing deadline for the solicitation response” in (a)(1), inserted (a)(2), and redesignated the subsequent subdivision accordingly; deleted “of an aggrieved bidder, offeror, or contractor, actual or prospective” in (b)(1); and made a related change.

19-11-265. Submission of contracts required.

(a)(1) All contracts for technical and general services, except for those that are specifically exempt from review, requiring the service of an individual or individuals for regular full-time or part-time weekly work in the areas of information technology, the actual delivery of health care or human services or educational services shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract if the total contract amount exceeds one hundred thousand dollars (\$100,000).

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with their review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Office of State Procurement has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this section.

(c)(1)(A) In addition to the contracts for technical and general services that are presented to the Legislative Council or to the Joint Budget Committee under subsection (a) of this section, the director shall compile a monthly report of each commodities contract that

includes services and has a projected total cost of two hundred fifty thousand dollars (\$250,000) or more.

(B) The director shall include in the monthly report under subdivision (c)(1)(A) of this section a commodities contract that is procured by a state agency with an agency procurement official.

(2) The monthly report shall include without limitation:

(A) The name of the contractor if the commodities contract is a state contract;

(B) The state agency name if the commodities contract is procured by a state agency with an agency procurement official;

(C) The contact information for the contractor or state agency;

(D) The total cost of the contract, the cost of the commodities, and the cost of the services;

(E) The type of commodity or commodities and services contracted;

(F) The quantity of the commodity or commodities contracted; and

(G) The procurement method.

(3) The director shall remit the report each month to the Legislative Council or to the Joint Budget Committee as directed by the Legislative Council.

(4) The Legislative Council or the Joint Budget Committee may review or may exempt from review any commodities contract or group of commodities contracts under this subsection.

History. Acts 2007, No. 870, § 1; 2009, No. 396, § 1.

Amendments. The 2009 amendment inserted (c).

SUBCHAPTER 6 — FEDERAL GOVERNMENT SURPLUS PROPERTY

SECTION.

19-11-601. Authority to transfer to state and local agencies.

19-11-602. Purchase for schools and school districts.

19-11-603. Service charge.

SECTION.

19-11-604. Rural water associations.

19-11-605. Authority to transfer excess military property to state and local agencies — Service charge.

A.C.R.C. Notes. Acts 2009, No. 1187, § 1, provided:

“(a) Effective July 1, 2009, the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the Federal Surplus Property program operated under Pub. L. No. 81-152 and Pub. L. No. 81-754 shall be transferred as a type 2 transfer, under § 25-2-105 from the Arkansas Department of Workforce Education to the Arkansas Department of Emergency Management.

“(b) For purposes of this act, the Arkan-

sas Department of Emergency Management shall be considered a principal department established by Acts 1971, No. 38.”

Effective Dates. Acts 2009, No. 1187, § 6: July 1, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that for the efficient operation of state and local government this act is immediately necessary to facilitate the cooperation with the federal government in the transfer of surplus property to state and local agencies and departments. Therefore, an emergency is declared to exist and this act being immediately necessary for

the preservation of the public peace, health, and safety shall become effective on July 1, 2009.”

19-11-601. Authority to transfer to state and local agencies.

(a) The Arkansas Department of Emergency Management is authorized to cooperate with the federal government in the transfer of government surplus property to any and all departments and agencies of state and local government and to any and all other agencies eligible to receive surplus property under Pub. L. No. 81-152 and Pub. L. No. 81-754, and any and all other statutory laws that may be enacted by the Congress of the United States covering the disposal of federal government surplus property.

(b) The department is authorized to take any and all action necessary to the proper administration of the surplus property program in the acquisition of and the distribution of government surplus properties to eligible claimants in this state, distribution to be in accordance with the appropriate controlling federal statutes.

(c) The department is authorized to add to the cost of the properties an amount necessary to defray the expenses of this service.

History. Acts 1951, No. 353, §§ 1-3; A.S.A. 1947, §§ 80-135.2 — 80-135.4; Acts 2009, No. 1187, § 2.

Amendments. The 2009 amendment substituted “Arkansas Department of

Emergency Management” for “State Board of Education” in (a); and substituted “department” for “state board” in (b) and (c).

19-11-602. Purchase for schools and school districts.

(a) The Arkansas Department of Emergency Management is authorized to purchase surplus commodities, materials, supplies, equipment, and other property from the federal government through any of its agencies for tax-supported schools and for school districts in Arkansas. The department is authorized to cooperate with the State Procurement Director in the purchase of school items.

(b) Schools and school districts desiring to obtain federal surplus materials, equipment, etc., shall make application to the department on blanks furnished by the board for that purpose.

(c) Schools and school districts making application to the department to purchase surplus materials, equipment, and other property from the federal government shall pay cash for it by drawing a voucher or warrant in favor of the federal government for the purchase price of such materials.

History. Acts 1945, No. 303, §§ 1-3; 1953, No. 384, § 17 [18]; A.S.A. 1947, §§ 80-132—80-134; Acts 2009, No. 1187, § 3.

Amendments. The 2009 amendment substituted “Arkansas Department of Emergency Management” for “State Board of Education” in (a); and substi-

tuted "department" for "state board" in (a), (b), and (c).

19-11-603. Service charge.

(a) The Arkansas Department of Emergency Management is authorized to add to the cost of surplus properties secured by the agency for surplus property an amount necessary to defray the expense of this service and to repay into the Revolving Loan Fund loans made to the agency as provided in this section.

(b) The department is also authorized to establish service charges in such amounts as may be necessary to cover the expenses of the department in administering special federal service programs for schools and agencies. These charges are to be paid by the school, institution, or agency in the amount designated by the department.

(c) The department is authorized and directed to take such action as is necessary to collect such charges and may, in its discretion, withhold from any state moneys over which the department has control funds necessary to pay the amounts owing by such school districts and agencies.

(d) It is the intention of the General Assembly that the schools and agencies shall pay for such services amounts sufficient to reimburse the department for expenses incurred in the operation of the federal surplus property program and in the operation of special federal service programs.

History. Acts 1959, No. 357, § 12; A.S.A. 1947, § 80-135.1; Acts 2009, No. 1187, § 4.

Amendments. The 2009 amendment substituted "Arkansas Department of

Emergency Management" for "State Board of Education" in (a); substituted "department" for "state board" in five places in (b) and (c); and made a minor stylistic change in (b).

19-11-604. Rural water associations.

Rural water associations shall be deemed eligible to participate in the federal surplus property program operated under Pub. L. No. 81-152 and Pub. L. No. 81-754 as now administered by the Arkansas Department of Emergency Management.

History. Acts 1988, (3rd Ex. Sess.), No. 7, § 2; 2009, No. 1187, § 5.

Amendments. The 2009 amendment inserted "operated under Pub. L. No. 81-152 and Pub. L. No. 81-754" and substi-

tuted "Arkansas Department of Emergency Management" for "Vocational and Technical Education Division of the Department of Education, or any successor agency."

19-11-605. Authority to transfer excess military property to state and local agencies — Service charge.

The Law Enforcement Support Office of the Department of Career Education may:

(1) Cooperate with the federal government under 10 U.S.C. § 2576a in the transfer of excess military property to state and local law enforcement agencies:

(A) Whose primary function is the enforcement of applicable federal, state, and local laws; and

(B) Whose compensated law enforcement officers have powers of arrest and apprehension, including without limitation counter-drug and counter-terrorism activities;

(2) Take any action necessary to the proper administration of the acquisition and the distribution of excess military properties to eligible claimants in this state, with distribution to be in accordance with the appropriate controlling federal statutes;

(3) Establish service charges in an amount necessary to cover the expenses of the department incurred in administering this section; and

(4) Take action as necessary to collect service charges and, from any state moneys over which the department has control, withhold funds necessary to pay an amount owing by a state or local law enforcement agency.

History. Acts 2013, No. 1097, § 1.

SUBCHAPTER 7 — ETHICS

SECTION.

19-11-717. State-supported institutions
of higher education.

19-11-717. State-supported institutions of higher education.

(a)(1) Notwithstanding anything in this subchapter to the contrary, if, in either of the events in subdivisions (a)(1)(A) and (B) of this section, the contract or subcontract, solicitation, or proposal involves patents, copyrights, or other proprietary information in which a state-supported institution of higher education and an employee or former employee of the state-supported institution of higher education have rights or interests, provided that a contract or subcontract shall be approved by the governing board of the state-supported institution of higher education in a public meeting, it shall not be a violation of § 19-11-709, a conflict of interest, or a breach of ethical standards for:

(A) The state-supported institution of higher education to contract with a person or firm in which an employee or former employee of the state-supported institution of higher education has a financial interest; or

(B) The employee or former employee of the state-supported institution of higher education to participate directly or indirectly in a matter pertaining to a contract, subcontract, solicitation, or proposal for a contract or subcontract between a state-supported institution of higher education and a person or firm in which the employee or former employee has a financial interest.

(2)(A) Within thirty (30) days of the approval by the governing board of a state-supported institution of higher education of a contract, subcontract, solicitation, or proposal executed under subdivision (a)(1) of this section, the state-supported institution of higher education shall file a summary of the contract, subcontract, solicitation, or proposal with the president of the state-supported institution of higher education.

(B) Failure to file the required summary with the president of the state-supported institution of higher education as required under subdivision (a)(2)(A) of this section renders the contract null and void.

(b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq., or in § 19-11-1001 et seq. shall prevent a state agency from contracting for goods or services, including professional or consultant services, with an organization that employs or contracts with a regular, full-time, or part-time employee of a state-supported institution of higher education in situations in which the employee of the state-supported institution of higher education will provide some or all of the goods or services under the contract.

(2) An organization or state agency entering into a contract described under this subsection shall comply with the Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq. to the extent that the Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq. do not conflict with this section.

(3) An employee of a state-supported institution of higher education who provides goods or services to a state agency through his or her association with an organization that has a contract with the state agency to provide goods or services shall obtain the requisite approvals under the policies of the state-supported institution of higher education by which he or she is employed and comply with all provisions of this subchapter.

(c)(1) No later than January 31 each year, an employee or former employee contracting or receiving benefits under this section shall file with the Secretary of State on a form provided by the Secretary of State a disclosure of the type and amount of the contract or benefits received during the previous year.

(2) Failure to file the required form with the Secretary of State as required under subdivision (c)(1) of this section is a breach of ethical standards.

History. Acts 1989, No. 875, § 1; 2005, No. 949, § 1; 2009, No. 735, § 1.

Amendments. The 2009 amendment subdivided (a), inserted “state-supported” preceding the first instance of “institution of higher education” in (a)(1), substituted “state-supported institution of higher education” for “institution” throughout (a),

and inserted (a)(2); substituted “state-supported” for “public” throughout (b), and substituted “Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq.” for “provisions” in (b)(2); added (c); and made related and minor stylistic changes.

SUBCHAPTER 8 — PROCUREMENT OF PROFESSIONAL SERVICES**19-11-801. Policy — Definitions.**

Cross References. Projects exceeding two million dollars, § 14-58-1001.

SUBCHAPTER 9 — PURCHASES OF DISABLED WORK CENTER PRODUCTS AND SERVICES**SECTION.**

19-11-902. Rules.

19-11-902. Rules.

(a) The Office of State Procurement shall be responsible for developing rules governing implementation of this subchapter.

(b) As used in this subchapter:

(1) "Commodities" means all property, including without limitation equipment, printing, stationery, supplies, and insurance, but excluding real property, leases on real property, or a permanent interest in real property;

(2) "Fiscal year" means July 1 of one (1) year through June 30 of the next year;

(3) "Individuals with disabilities" means those persons who have a medically or psychiatrically determined physical, mental, or developmental disability constituting a substantial vocational handicap;

(4) "Ordering office" means any state department, independent establishment, board, commission, bureau, service, or division of state government and any wholly owned state corporation;

(5) "Products", for purposes of this subchapter, means commodities or services wherein the price of the commodities includes at least twenty percent (20%) value added when the work center is awarded a contract using the ten percent (10%) preference, and in the case of services, that they are performed by individuals with disabilities;

(6)(A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of the Arkansas Building Authority;

(7) "Sheltered workshop" means a work center which has:

(A) Certification from the United States Department of Labor as a sheltered workshop; and

(B) Been licensed by the Division of Developmental Disabilities Services of the Department of Human Services or certification from Arkansas Rehabilitation Services;

(8)(A) "Work center" means any facility certified by the Arkansas Rehabilitation Services where any manufacture or handiwork is

carried on and which is operated for the primary purpose of providing evaluation, training, and gainful employment to individuals with disabilities of Arkansas:

(i) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or

(ii) During such time as employment opportunities for them in the competitive labor market do not exist.

(B) "Work center" includes without limitation:

(i) A sheltered work center; and

(ii) A work center for the blind; and

(9) "Work center for the blind" means a facility certified by the Division of State Services for the Blind of the Department of Human Services where any manufacture, handiwork, or provision of services is carried on and that is operated to provide evaluation, training, and gainful employment to individuals in the State of Arkansas eligible for services from the Division of State Services for the Blind:

(A) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market;

(B) During such time as employment opportunities for individuals in the State of Arkansas eligible for service from the Division of State Services for the Blind in the competitive labor market do not exist; or

(C) For whom such placement represents informed choice as appropriate employment at a competitive wage.

(c) All state agencies as defined in § 19-11-203 are required to purchase their requirements of needed available and suitable products and purchase suitable services from nonprofit work centers for individuals with disabilities, unless such commodities and services are authorized by prior legislation for production in another state agency, department, or institution.

(d)(1) The Office of State Procurement shall issue to all state agency purchasing agents a schedule of commodities and services made by the work center and the conditions under which they are to be procured from the workshops.

(2) The schedule shall include the item or service description.

(e) Arkansas Rehabilitation Services and the Division of State Services for the Blind shall undertake the inspection on a continuing basis of the workshops certified by each respective state agency to determine that they operate in accordance with the requirements of the statute and the regulations of this section.

(f)(1)(A) In order to qualify for participation in the program as a work center, an organization shall submit an application to the Office of State Procurement.

(B) If required for all vendors, there should be included a list of the commodities and services offered for sale to the state.

(2) Work centers shall:

(A) Furnish commodities and services in strict accordance with the allocation and government order;

(B) Maintain records of wages paid, hours of employment, and sales;

(C) Make available pertinent books and records of the state agency for inspection at any reasonable time to representatives of Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable; and

(D)(i) Submit to Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable, by September 1 an annual report for the preceding fiscal year.

(ii) This report shall include data on individuals with disabilities who are workers, wages and wage supplements, hours of employment, sales, whether the workshop requires a facilities sheltered workshop certificate from the United States Department of Labor and special minimum rates authorized where such certificate is held, and such other relevant information as may be required.

(g) When a commodity or service is identified in the schedule of work center-made commodities and services as being available through the Office of State Procurement, it shall be obtained in accordance with the requisitioning procedures of the supplying state agency.

(h) An ordering office may purchase from a nonworkshop source commodities or services listed in the schedule of commodities and services made by the work center in any of the following circumstances:

(1) Necessity requires delivery within the specified period, and the work center cannot give assurance of positive availability;

(2) When commodities listed on the schedule of work center-made commodities can be purchased from a non-work-center source by the state agency for a price more than ten percent (10%) lower than commodities made by the work center included in the schedule; or

(3) Services offered by any work center shall be procured by any state agency in accordance with this section at a price not more than ten percent (10%) above the lowest price submitted from a non-work-center source.

(i) Product commodities made by a work center shall be delivered in accordance with the terms of the purchase order.

(j) When a workshop fails to comply with the terms of a government order, the ordering office shall make reasonable efforts to negotiate an adjustment before taking action to cancel the order.

(k) Any alleged violation of these regulations shall be investigated by the Office of State Procurement, which shall notify the work center concerned and afford it an opportunity to submit a statement of facts and evidence.

History. Acts 2001, No. 1718, § 1; 2007, No. 186, § 7; 2011, No. 807, § 1.

Amendments. The 2011 amendment deleted former (b)(1) and (b)(3), inserted present (b)(3), and redesignated the remaining subdivisions accordingly; added present (b)(8)(B)(ii) and (b)(9); in (e), in-

serted “and the Division of State Services for the Blind” and substituted “each respective state agency” for “Arkansas Rehabilitation Services”; and inserted “or the Division of State Services for the Blind, as applicable” in (f)(2)(C) and (f)(2)(D)(i); and made stylistic changes.

SUBCHAPTER 10 — PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS

SECTION.

19-11-1001. Definitions.

19-11-1003. Contracts exempted.

19-11-1006. Submission of contracts required.

SECTION.

19-11-1012. Standard contract forms.

Effective Dates. Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be imple-

mented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-11-1001. Definitions.

As used in this subchapter:

(1) "Consultant services contract" means a contract between a state agency and an individual or organization in which:

(A) The service to be rendered to the state agency or to a third-party beneficiary under the contract is primarily the giving of advice by the contractor on a particular problem facing the state agency or the third-party beneficiary;

(B) The contractor is an independent contractor with respect to the state agency;

(C) The state agency does not exercise managerial control over the day-to-day activities of the contractor; and

(D) The contract specifies the results expected from the services to be rendered by the contractor and the advice or assistance to be provided;

(2) "Contractor" means any person or organization that executes a contract with a state agency under which the person or organization agrees to provide professional services or consultant services to the state agency, and the individuals performing the services are not state employees occupying regular full-time or part-time or extra help positions provided by law;

(3)(A) "Design professional contract" means a contract that is primarily for:

- (i) Minor projects that are time critical; and
- (ii) Minor remodeling projects that do not exceed one million dollars (\$1,000,000) in cost.

(B) Design professional contracts are primarily for the procurement of architectural, engineering, and professional services competitively selected under § 19-11-801 et seq.

(C) Design professional contracts shall be reviewed by the agency or institution at least yearly and adjusted to reflect historical expenditures.

(D)(i) A state agency shall follow applicable Arkansas Building Authority guidelines, procedures, and rules for the selection and award of contracts.

(ii) However, a guideline, procedure, or rule of the authority shall not increase or decrease the:

- (a) Dollar amount under subdivision (3)(A)(ii) of this section; or
- (b) Specified period under § 19-11-238(a).

(E) Institutions of higher education that are exempt from review and approval of the Arkansas Building Authority shall comply with the provisions of this section;

(4) “Director” means the State Procurement Director;

(5) “Employee” means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing professional services for any state agency;

(6) “Professional services contract” means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary; and

(7) “State agency” means any department, agency, board, commission, or institution of higher education of the State of Arkansas.

History. Acts 2003, No. 1315, § 13; 2007, No. 478, § 7; 2009, No. 532, § 1. **Amendments.** The 2009 amendment rewrote (3)(D).

19-11-1003. Contracts exempted.

(a) This subchapter shall not apply to the contracts of the Arkansas State Highway and Transportation Department that are covered by the technical work requirements and administrative controls of the Federal Highway Administration, nor shall the provisions of this subchapter be

applicable to contracts entered into by the department in which the costs and fees are established by competitive bidding.

(b) This subchapter shall not apply to contracts of institutions of higher education that are for services related to patents, copyrights, or trademarks.

(c) This subchapter does not apply to contracts created under federally approved state plans for services reimbursed under Title V of the Social Security Act, 42 U.S.C. §§ 701 — 710, or Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 — 1396v, as they existed on January 1, 2001, if those contracts and services conform to all applicable federal laws and rules, and to the ethical standards provided for in § 19-11-704.

(d) This subchapter does not apply to major procurement contracts of the Arkansas Lottery Commission under § 23-115-103.

History. Acts 2003, No. 1315, § 13; by identical acts Nos. 605 and 606 added 2009, No. 605, § 22; 2009, No. 606, § 22. (d).

Amendments. The 2009 amendment

19-11-1006. Submission of contracts required.

(a)(1) All contracts for professional services or consultant services, except for those which are specifically exempt from review, requiring the services of an individual for regular full-time or part-time weekly work where the total contract amount exceeds fifty thousand dollars (\$50,000) must be presented to the Legislative Council, or to the Joint Budget Committee if the General Assembly is in session, before the execution date of the contract.

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with their review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Finance and Administration has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this subchapter.

(c)(1) Funds from grants and contracts to any state institution of higher education may be used for the purpose of subcontracting with institutions under the performance conditions of the grants or contracts.

(2) Subcontracts for research that are derived from grants and contracts to any state institution of higher education require the prior approval of the director and a review by the Legislative Council or by the Joint Budget Committee.

History. Acts 2003, No. 1315, § 13; (\$50,000)” for “twenty-five thousand dollars (\$25,000)” in (a)(1) and made stylistic changes.

Amendments. The 2013 amendment substituted “fifty thousand dollars

19-11-1012. Standard contract forms.

(a) The State Procurement Director shall prescribe standard forms to be utilized by all state agencies.

(b) The standard contract form shall include the following items, plus such additional items as the director shall deem desirable for the purposes of this subchapter:

(1) A section setting forth in reasonable detail the objectives and scope of the contractual agreement and the methods to be used to determine whether the objectives specified have been achieved;

(2) The rates of compensation, transportation, per diem, subsistence, out-of-pocket allowances, and all other items of costs contemplated to be paid the contractor by the state agency;

(3) The method by which the rate of compensation and the total payment shall be calculated;

(4) The maximum number of dollars which the state agency may be obligated to pay to the contractor under the terms of the contract, including all expenses and other items of costs, and the source of funding to be utilized;

(5) The term of the contract;

(6)(A) The names of all individuals who will be supplying services to the state agency or to third-party beneficiaries under the terms of the contracts, so far as those names are known to the contractor at the time of the execution of the contract.

(B) If the names of all individuals supplying services under the contract are not available at the time of the execution of the contract, the contract shall contain a provision requiring the contractor to submit periodically the names of individuals supplying services as soon as the identity of those individuals is known to the contractor;

(7) When the contractor is a business entity, the federal identification number of the business entity shall be listed on the contract form;

(8)(A) A certification signed by the contractor shall be included as follows:

“_____ (name) _____ (title)

I _____, certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of any state agency of the State of Arkansas will receive any personal, direct, or indirect monetary benefits which would be in violation of the law as a result of the execution of this contract.”

(B) As used in subdivision (b)(8)(A) of this section, it shall be understood that when the contractor is a widely held public corporation “direct or indirect monetary benefit” shall not apply to any regular corporate dividends paid to a stockholder of the corporation who is also a state employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation;

(9)(A) For any contract in which the total compensation exclusive of reimbursable expenses to be paid by the state agency does not exceed fifty thousand dollars (\$50,000), a purchase order may be utilized in lieu of the standard form or forms prescribed by the director.

(B)(i) However, should the state agency enter into a subsequent contract with the same individual or organization during the same fiscal year, regardless of the nature of the contract, then the details of the original contract which utilized a purchase order form and of all subsequent contracts, regardless of amount or type, shall be promptly reported to the director.

(ii) This reporting shall be done to allow the director to determine whether the state agency is utilizing a series of contracts to avoid the use of the standard form and to avoid the application of appropriate regulations;

(10) Standard contract forms in use by licensed practitioners such as architects and engineers may be used to supplement the standard contract forms; and

(11) All professional consultant services contracts shall contain the following clause:

“In the event the State of Arkansas fails to appropriate funds or make moneys available for any biennial period covered by the term of this contract for the services to be provided by the contractor, this contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes.

“This provision shall not be construed to abridge any other right of termination the agency may have.”

(c) For the purpose of reporting methods of finance, a state agency shall disclose the total estimated project cost in addition to any other reporting requirements of the Legislative Council or the Joint Budget Committee.

History. Acts 2003, No. 1315, § 13; substituted “fifty thousand dollars 2005, No. 1680, § 17; 2013, No. 1189, § 5. (\$50,000)” for “twenty-five thousand dol-

Amendments. The 2013 amendment lars (\$25,000)” in (b)(9)(A).

SUBCHAPTER 11 — PURCHASE OF TECHNOLOGY SYSTEMS

SECTION.

19-11-1103. Exemptions.

Effective Dates. Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries

will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be imple-

mented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of

its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

19-11-1103. Exemptions.

This subchapter does not apply to major procurement contracts of the Arkansas Lottery Commission under § 23-115-103.

History. Acts 2009, No. 605, § 23; 2009, No. 606, § 23.

SUBCHAPTER 12 — GUARANTEED ENERGY COST SAVINGS ACT

SECTION.

- 19-11-1202. Definitions.
- 19-11-1205. Evaluation of responses to solicitations.
- 19-11-1206. Guaranteed energy cost savings contract requirements.

SECTION.

- 19-11-1207. Administration of subchapter — Fees.
- 19-11-1208. Use of maintenance and operation appropriations.

19-11-1202. Definitions.

As used in this subchapter:

- (1)(A) “Energy cost savings measure” means:
 - (i) A new facility that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that:
 - (a) Do not degrade the level of service or working conditions;
 - (b) Are measurable and verifiable under the International Performance Measurement and Verification Protocol, as adopted by the Arkansas Energy Office in the rules required under § 19-11-1207; and
 - (c) Are measured and verified by an audit performed by a qualified provider; or
 - (ii) An existing facility alteration that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that conform with subdivisions (1)(A)(i)(a) and (b) of this section.
- (B) “Energy cost savings measure” includes:
 - (i) Insulation and reduced air infiltration of the building structure, including walls, ceilings, and roofs or systems within the building;
 - (ii) Storm windows or doors, caulking or weather-stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, additional glazing, reductions in

glass area, or other window and door system modifications that reduce energy consumption;

(iii) Automated or computerized energy control systems, including computer software and technical data licenses;

(iv) Heating, ventilating, or air conditioning system modifications or replacements;

(v) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(vi) Indoor air quality improvements;

(vii) Energy recovery systems;

(viii) Electric system improvements;

(ix) Life safety measures that provide long-term, operating-cost reductions;

(x) Building operation programs that reduce operating costs;

(xi) Other energy-conservation-related improvements or equipment, including improvements or equipment related to renewable energy;

(xii) Water and other natural resources conservation; or

(xiii) An alteration or measure identified through a comprehensive audit or assessment of new or existing facilities;

(2)(A) "Guaranteed energy cost savings contract" means a contract for the implementation of one (1) or more energy cost savings measures and services provided by a qualified provider in which the energy and cost savings achieved by the installed energy project cover all project costs, including financing, over a specified contract term.

(B) "Guaranteed energy cost savings contract" does not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply;

(3) "Operational cost savings" means expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(4) "Public notice" means the same as "public notice" is defined in § 19-11-203;

(5) "Qualified provider" means a person or business, including all subcontractors and employees of that person or business and third-party financing companies, that:

(A) Is properly licensed in the State of Arkansas;

(B) Has been reviewed and certified by the Arkansas Energy Office as a qualified provider under this subchapter;

(C) Is experienced in the design, implementation, measurement, verification, and installation of energy cost savings measures;

(D) Has at least five (5) years of experience in the analysis, design, implementation, installation, measurement, and verification of energy efficiency and facility improvements;

(E) Has the ability to arrange or provide the necessary financing to support a guaranteed energy cost savings contract; and

(F) Has the ability to perform under a contract that requires the person or business to guarantee the work performed by one (1) or more subcontractors; and

(6) “State agency” means the same as “state agency” is defined in § 19-11-203.

History. Acts 2005, No. 1761, § 1; preceding “audit” in (1)(A)(i)(c); substituted “a qualified provider” for “qualified”
2013, No. 554, §§ 2–4. energy service companies” in (2)(A); and

Amendments. The 2013 amendment rewrote (1)(A)(i)(b); deleted “independent” rewrote (5).

19-11-1205. Evaluation of responses to solicitations.

(a) In a state agency’s evaluation of each qualified provider’s response to a solicitation under § 19-11-1204, the state agency shall include an analysis of:

(1) Whether the qualified provider meets the objectives of the solicitation, including without limitation a reduction in the state agency’s energy consumption or operating costs resulting from a guaranteed energy cost savings contract with the qualified provider;

(2) The qualifications and experience of the qualified provider;

(3) The technical approach to the energy cost savings measures;

(4) The financial aspects of the energy cost savings measures;

(5) The overall benefit to the state agency; and

(6) Any other relevant factors.

(b) After evaluating a response to a solicitation as required under subsection (a) of this section, a state agency may:

(1) Reject the response; or

(2) Award a contract to a qualified provider to conduct an energy audit to be used in developing the guaranteed energy cost savings contract.

History. Acts 2005, No. 1761, § 1; rewrote the section catchline and the section.
2013, No. 554, § 5.

Amendments. The 2013 amendment

19-11-1206. Guaranteed energy cost savings contract requirements.

(a) The following provisions are required in a guaranteed energy cost savings contract:

(1) A statement that the state agency shall maintain and operate the energy cost savings measures as defined in the guaranteed energy cost savings contract; and

(2) A guarantee by the qualified provider that:

(A) The energy cost savings and operational cost savings to be realized over the term of the guaranteed energy cost savings contract meet or exceed the costs of the energy cost savings measures; and

(B) If the annual energy or operational cost savings fail to meet or exceed the annual costs of the energy cost savings measure as required by the guaranteed energy cost savings contract, the qualified provider shall reimburse the state agency for any shortfall of guaranteed energy cost savings over the term of the guaranteed energy cost savings contract.

(b) The maximum term for a guaranteed energy cost savings contract is twenty (20) years after the implementation of the energy cost savings measures.

(c) Before entering into a guaranteed energy cost savings contract, the state agency shall require the qualified provider to file with the state agency a payment and performance bond or similar assurance as provided under § 19-11-235.

History. Acts 2005, No. 1761, § 1; 2013, No. 554, § 6.

Amendments. The 2013 amendment rewrote the section heading; in the introductory language of (a), added “The following provisions are required in” at the beginning and deleted “shall include the properly state licensed qualified provider’s guarantee that” from the end; in-

serted present (a)(1) and (2); redesignated former (a)(1) and (a)(3) as (a)(2)(A) and (a)(2)(B); deleted former (a)(2); in (a)(2)(A) inserted “cost savings” and deleted “shall” preceding “meet”; substituted “over the term of the guaranteed energy cost savings contract” for “on an annual basis” in (a)(2)(B); rewrote (b); and substituted “payment and” for “bid bond” in (c).

19-11-1207. Administration of subchapter — Fees.

The Arkansas Energy Office:

(1) Shall:

(A) Administer this subchapter; and

(B) Promulgate rules for the administration of this subchapter within nine (9) months of the effective date of this subchapter, including without limitation the following:

(i) Standards for measuring and verifying the performance of energy cost savings measures;

(ii) A standard contract form for use by a state agency in entering into a guaranteed energy cost savings contract; and

(iii) The adoption of the International Performance Measurement and Verification Protocol as it existed on a specific date; and

(2) May establish and collect a reasonable fee to cover the costs of administering this subchapter.

History. Acts 2013, No. 554, § 7.

19-11-1208. Use of maintenance and operation appropriations.

(a) Notwithstanding any law to the contrary, a state agency may utilize maintenance and operations appropriations for the payment of equipment and energy cost savings measures required by a guaranteed energy cost savings contract.

(b) An energy cost savings measure shall be treated as an energy efficiency project under Arkansas Constitution, Amendment 89.

History. Acts 2013, No. 554, § 7; 2013, No. 1252, § 6.

Amendments. The 2013 amendment added (b).

SUBCHAPTER 13 — PARTIAL EQUITY OWNERSHIP AGREEMENT EXECUTED BY A STATE RETIREMENT SYSTEM

SECTION.

- 19-11-1301. Definition.
- 19-11-1302. Review of partial equity ownership agreements.
- 19-11-1303. Imminent need to enter into a partial equity ownership agreement.

SECTION.

- 19-11-1304. Retrospective review of a partial equity ownership agreement to ensure disclosure.

Effective Dates. Acts 2009, No. 1211, § 3: Apr. 7, 2009. Emergency clause provided “It is found and determined by the General Assembly of the State of Arkansas that a partial equity ownership agreement is fundamentally and substantially different than a state contract for commodities, technical and general services, and professional and consultant services that are procured under the Arkansas Procurement Law § 19-11-201 et seq., and other contracts currently procured under Arkansas Code, Title 19, Chapter 11; that frugal investment practices often require a minimum duration of ten (10) years or more for the interest to mature; that a partial equity ownership agreement is necessary for certain size trust funds to fulfill the requirements of the prudent investor rule; that a partial equity ownership agreement should be subject to a procurement process that is

unique to the partial equity ownership agreement; that currently there is a lack of clarification in the law regarding a proper review process for partial equity ownership agreements; and that this new section will resolve the issue with the intent to preserve the review process for a partial equity ownership agreement and allow flexibility in the review for a narrow and clearly defined exception. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

19-11-1301. Definition.

As used in this subchapter, “partial equity ownership agreement” means an agreement with a legal entity, including without limitation a partnership, a limited partnership, a limited liability company, or similar legal entity that:

- (1) Includes a state retirement system as a partner, a limited partner, or a partial owner;
- (2) Creates an equity interest or ownership position for the state retirement system; and
- (3) Utilizes retirement trust funds that are not appropriated by the General Assembly.

History. Acts 2009, No. 1211, § 2.

19-11-1302. Review of partial equity ownership agreements.

(a) A partial equity ownership agreement is subject to review by submission of the partial equity ownership agreement to the Office of State Procurement and the Legislative Council under this section.

(b) Since the partial equity ownership agreement is fundamentally and substantially different from a state contract for commodities, goods, and services that are reviewed under the Arkansas Procurement Law, § 19-11-201 et seq., or other contract that is reviewed under subchapters 1-12 of this chapter, and since the partial equity ownership agreement is utilizing retirement trust funds that are not appropriated by the General Assembly, the partial equity ownership agreement is not subject to:

(1) A limitation of the term or duration of the partial equity ownership agreement; or

(2) An annual renewal clause.

(c) When submitting a partial equity ownership agreement for review, the state retirement system shall provide information that includes without limitation:

(1) The managing parties to the partial equity ownership agreement;

(2) The state retirement system's interest and ownership in the partial equity ownership agreement;

(3) The reason for the formation of or entry into the partial equity ownership agreement;

(4) Justification that the duration of the partial equity ownership agreement is necessary to serve the best interests of the retirants under the prudent investor rule as set out in §§ 24-2-610 — 24-2-619;

(5) The anticipated date of implementation of the partial equity ownership;

(6) The anticipated termination date of the partial equity ownership agreement; and

(7) Other information regarding the terms of the partial equity ownership agreement that the office or the Legislative Council may reasonably require for an adequate review.

History. Acts 2009, No. 1211, § 2.

19-11-1303. Imminent need to enter into a partial equity ownership agreement.

(a) In lieu of a review under § 19-11-1302, a partial equity ownership agreement that necessitates immediate formation shall be reviewed by the Office of State Procurement and the Legislative Council under this section.

(b)(1) The board of trustees of a state retirement system may enter into a partial equity ownership agreement or substantially alter the terms of an existing partial equity ownership agreement if the board of trustees passes a resolution that:

(A) Determines an imminent need to immediately form or enter into the partial equity ownership agreement;

(B) Deems it financially appropriate to immediately form or enter into a partial equity ownership agreement; and

(C) Concludes that to forego the opportunity to promptly implement the board of trustees' investment directives under the prudent investor rule as set out in §§ 24-2-610 — 24-2-619 would be inconsistent with the board of trustees' fiduciary duty of care to the retirants.

(2) The board of trustees of the state retirement system shall provide the office and the Legislative Council with a copy of the resolution under subsection (a) of this section within five (5) business days of the passage of the resolution.

(c) For a partial equity ownership agreement reviewed under this section, the retirement system shall submit information to the office and the Legislative Council within thirty (30) days of the passage of the resolution that discloses:

(1) The managing parties to the partial equity ownership agreement;

(2) The state retirement system's interest and ownership in the partial equity ownership agreement;

(3) The reason for the immediate formation or entry into a partial equity ownership agreement;

(4) Justification that the duration of the partial equity ownership agreement is necessary to serve the best interests of the retirants under the prudent investor rule as set out in §§ 24-2-610 — 24-2-619;

(5) The anticipated date of implementation;

(6) The anticipated termination date of the partial equity ownership agreement; and

(7) Other information regarding the terms of the partial equity ownership agreement that the office or the Legislative Council may reasonably require for an adequate review.

(d) As may be reasonably required by the Legislative Council, a member of the board of trustees, the director of the respective state retirement system, or the director's appointee shall appear at the next scheduled meeting of the Legislative Council after the receipt of the information under subsection (c) of this section to present the information and explain the details of the partial equity ownership agreement.

History. Acts 2009, No. 1211, § 2.

19-11-1304. Retrospective review of a partial equity ownership agreement to ensure disclosure.

(a) Before April 7, 2009, if a state retirement system has entered into a partial equity ownership agreement that has not been submitted previously for review under § 19-11-101 et seq., the Arkansas Procurement Law, § 19-11-201 et seq., or § 19-11-801 et seq., then the partial equity ownership agreement shall be reviewed retrospectively under this section.

(b) The board of trustees of a state retirement system shall submit information that the Office of State Procurement or the Legislative Council may reasonably require to allow a retrospective review of a partial equity ownership agreement under this section.

History. Acts 2009, No. 1211, § 2.

CHAPTER 12

TOBACCO SETTLEMENT PROCEEDS ACT

A.C.R.C. Notes. Acts 2013, No. 1024, § 6, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1204, § 6, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1379, § 8, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement."

Acts 2013, No. 1381, § 9, provided: "POSITIONS.

"(a) Nothing in this act shall be con-

strued as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall

be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

SUBCHAPTER 1 — TOBACCO SETTLEMENT PROCEEDS ACT

A.C.R.C. Notes. Acts 2013, No. 951, § 6, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Acts 2013, No. 952, § 5, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

19-12-104. Creation and administration of Tobacco Settlement Cash Holding Fund.

A.C.R.C. Notes. Acts 2013, No. 1496, § 20, provided: “FUND TRANSFER PRO-

VISIONS — MEDICAID PROGRAM. Notwithstanding the provisions of Initi-

ated Act 1 of 2000, or Arkansas Code 19-12-104 regarding the establishment and administration of the Tobacco Settlement Cash Holding Fund, or any other laws to the contrary, the entire amount of the settlement funds received, approximately twenty-two million seven hundred sixty-eight thousand one hundred twenty-six dollars (\$22,768,126), or so much as is actually awarded and received by the state, through the settlement agreement

in the nearly decade old dispute between Arkansas and the tobacco companies that signed the Master Settlement Agreement, shall be deposited into the Tobacco Settlement Cash Holding Fund and not distributed under the provisions of the Tobacco Settlement Proceeds Act, but instead such settlement funds shall be deposited directly into and credited to the Medicaid Expansion Program Account of the Tobacco Settlement Program Fund."

19-12-116. Establishment and administration of Medicaid Expansion Program.

A.C.R.C. Notes. Acts 2013, No. 1379, § 6, provided: "MEDICAID EXPANSION PROGRAM — PAYING ACCOUNTS. The Medicaid Expansion Program as established by Initiated Act 1 of 2000 shall be a separate and distinct component embracing (1) expanded Medicaid coverage and benefits to pregnant women; (2) expanded inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64); (3) expanded non-institutional coverage and benefits to adults aged 65 and over; and (4) creation and provision of a limited benefit package to adults aged nineteen

(19) to sixty-four (64), to be administered by the Department of Human Services. Separate Paying Accounts shall be established for the Medicaid Expansion Program as designated by the Chief Fiscal Officer of the State, to be used exclusively for the purpose of drawing down federal funds associated with the federal share of expenditures and for the state share of expenditures transferred from the Medicaid Expansion Program Account or for any other appropriate state match funds.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.

A.C.R.C. Notes. Acts 2013, No. 1024, § 3, provided: "INDEPENDENT MONITORING AND EVALUATION. The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics and evaluation

expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a regular session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

19-12-118. Monitoring and evaluation of programs.

A.C.R.C. Notes. Acts 2013, No. 1024, § 3, provided: "INDEPENDENT MONITORING AND EVALUATION. The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Com-

mittees and shall hire an independent third party to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive re-

sources, health statistics and evaluation expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a regular session of the General Assembly. The report shall be accompanied by a recommendation from

the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

APPENDIX — TITLE 19

BOND ISSUES

17. THE STEEL MILL PROJECT — ACTS 2013, No. 1084, §§ 1-8.

SECTION 1. Legislative findings and intent.

(a) The General Assembly finds that the:

(1) Creation of jobs and economic growth are critical to improving the lives of the citizens of the State of Arkansas; and

(2) Arkansas Economic Development Commission has submitted for approval of the General Assembly a proposal to issue general obligation bonds of the state to provide financing for a large economic development project.

(b) The General Assembly further finds that:

(1) The proposed project between the State of Arkansas and Big River Steel, LLC is a qualified project under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and Big River Steel, LLC qualifies as an eligible business under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.;

(2) The proposed uses of the bond proceeds described in the Amendment 82 Agreement qualify as financing for infrastructure or other needs within the meaning of Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.; and

(3) Arkansas Constitution, Amendment 82, authorizes the General Assembly to issue bonds bearing the full faith and credit of the State of Arkansas if the prospective employer planning an economic development project is eligible under the criteria established by law.

(c) This act is intended to authorize:

(1) The issuance of bonds under the authority granted to the General Assembly under Arkansas Constitution, Amendment 82; and

(2) Under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the execution and implementation of the Amendment 82 Agreement and other provisions necessary to carry out the Amendment 82 Agreement.

(d) As provided under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., this act includes the:

(1) Authorization for the issuance of bonds bearing the full faith and credit of the State of Arkansas as authorized under Arkansas Constitution, Amendment 82;

(2) Authorization of the agreement between the State of Arkansas and the Big River Steel, LLC;

(3) Creation of a sales tax exemption for natural gas and electricity for Big River Steel, LLC; and

(4) Extension of the waste reduction, reuse, or recycling equipment tax credit.

SECTION 2. Big River Steel Project bonds issued under Arkansas Constitution, Amendment 82.

(a) As used in this section:

(1) “Amendment 82 Agreement” means the unexecuted document titled “Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC” submitted to the General Assembly and as found in Section 8 of this act; and

(2) “Project” means the acquisition, development, construction, and operation of a mini-mill steel manufacturing facility by Big River Steel, LLC, on a site in Mississippi County, Arkansas, that is identified more specifically in the Amendment 82 Agreement.

(b)(1) The General Assembly finds that the project qualifies as a large economic development project for which the issuance of general obligation bonds is authorized under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and is of the nature intended by the electors of the state to be financed with bonds under Arkansas Constitution, Amendment 82.

(2) The General Assembly approves the terms of the Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC, and authorizes the execution of the Amendment 82 Agreement in substantially the same form as presented to the General Assembly but with such changes as shall be approved by the officers executing the Amendment 82 Agreement on behalf of the state.

(c)(1) The General Assembly authorizes the Arkansas Development Finance Authority to issue general obligation bonds of the State of Arkansas in an amount not to exceed one hundred twenty-five million dollars (\$125,000,000) in the aggregate.

(2) The bonds authorized under subdivision (c)(1) of this section:

(A) Are direct general obligations of the State of Arkansas;

(B) Bear the full faith and credit of the State of Arkansas; and

(C) Are payable from gross general revenues or special revenues appropriated by the General Assembly.

(d) The authority shall issue the bonds in accordance with the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(e)(1) The Arkansas Economic Development Commission and the authority may implement the Amendment 82 Agreement consistent with this act, Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(2) If a provision of this act or of the Amendment 82 Agreement conflicts with any provision of the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the provisions of this act and the provisions of the Amendment 82 Agreement control.

SECTION 3. Sections 4 through 7 of this act shall be known and may be cited as the “Amendment 82 Big River Steel Project Tax Provisions”.

SECTION 4. Definitions.

As used in sections 4 through 7 of this act:

(1) “Invested” includes, but is not limited to, expenditures made from

the proceeds of bonds, including interim notes or other evidence of indebtedness, issued by a municipality, county, or an agency or instrumentality of a municipality, county, or the State of Arkansas, if the obligation to repay the bonds, including interest thereon, is a legally binding obligation, directly or indirectly, of the taxpayer;

(2) "Production, processing, and testing equipment" includes machinery and equipment essential for the receiving, storing, processing, and testing of raw materials and the production, storage, testing, and shipping of finished products, and facilities for the production of steam, electricity, chemicals, and other materials that are essential to the manufacturing process but which are consumed in the manufacturing process and do not become essential components of the finished product; and

(3) "Qualified manufacturer of steel" means any natural person, company, or corporation, and any holding company of any of the foregoing, engaged in the manufacture, refinement, or processing of steel whenever more than fifty percent (50%) of the electricity or more than fifty percent (50%) of the natural gas consumed in the manufacture, refinement, or processing of steel is used to power an electric arc furnace or furnaces or continuous casting equipment in connection with the melting, continuous casting, or rolling of steel or in the preheating of steel for processing through a rolling mill or rolling mills, or both.

SECTION 5. Certification required.

(a) To claim the benefits of this act, a taxpayer must obtain a certification prior to March 31, 2016, from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer:

(1) Is a qualified manufacturer of steel;

(2) Operates a steel mill in Arkansas which began production after January 1, 2013; and

(3) Has invested after January 1, 2013, and prior to December 31, 2015, more than five hundred million dollars (\$500,000,000) in the steel mill, and the investment expenditure is for one (1) or more of the following:

(A) Property purchased for use in the construction of a building or buildings or any addition or improvement thereon to house the steel mill;

(B)(i) Machinery and equipment to be located in or in connection with the steel mill.

(ii) Motor vehicles of a type subject to registration shall not be considered as machinery and equipment; and

(C) Project planning costs or construction labor costs, including:

(i) On-site direct labor and supervision, whether employed by a contractor or the project owner;

(ii) Architectural fees or engineering fees, or both;

(iii) Right-of-way purchases;

(iv) Utility extensions;

(v) Site preparation;

- (vi) Parking lots;
- (vii) Disposal or containment systems;
- (viii) Water and sewer treatment systems;
- (ix) Rail spurs;
- (x) Streets and roads;
- (xi) Purchase of mineral rights;
- (xii) Land;
- (xiii) Buildings;
- (xiv) Building renovation;
- (xv) Production, processing, and testing equipment;
- (xvi) Drainage systems;
- (xvii) Water tanks and reservoirs;
- (xviii) Storage facilities;
- (xix) Equipment rental;
- (xx) Contractor's cost-plus fees;
- (xxi) Builders' risk insurance;
- (xxii) Original spare parts;
- (xxiii) Job administrative expenses;
- (xxiv) Office furnishings and equipment;
- (xxv) Rolling stock; and

(xxvi) Capitalized start-up costs related to the construction as recognized by generally accepted accounting principles.

(b) To continue to claim the benefits provided under Section 7 of this act after December 31, 2018, a taxpayer shall:

(1) Obtain an annual certification from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer meets the requirements of subsection (a) of this section; and

(2) Employ at least three hundred (300) individuals in the management, operations, and maintenance of the steel mill at an average wage equal to or in excess of seventy thousand dollars (\$70,000) in cash compensation per calendar year.

SECTION 6. Exemption from taxes.

Beginning on the date that production, processing, and testing equipment are first in operation, sales of natural gas and electricity to a qualified manufacturer of steel that is certified under Section 5 of this act shall be exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, Arkansas Code § 26-52-101, et seq., the Arkansas Compensating Tax Act of 1949, Arkansas Code § 26-53-101 et seq., and any other state or local tax administered under those acts.

SECTION 7. Recycling tax credits.

(a)(1)(A) A qualified manufacturer of steel that has been certified under Section 5 of this act after January 1, 2013, and prior to December 31, 2020, and that has qualified for the income tax credit for the purchase of waste reduction, reuse, or recycling equipment provided by Arkansas Code § 26-51-506, may carry forward any unused income tax credit earned under § 26-51-506 for a period of fourteen (14) consecutive years following the taxable year in which the credit originated.

(B) However, if a qualified manufacturer of steel is not certified under Section 5(b) of this act, the carry-forward period allowed under subdivision (a)(1)(A) of this section shall be reduced by one (1) year for each year that the qualified manufacturer of steel does not obtain certification under Section 5(b) of this act.

(2) Income tax credits that would otherwise expire during that period shall be claimed first.

(b)(1) As used in subdivision (a)(1) of this section, the term "waste reduction, reuse, or recycling equipment" as defined in § 26-51-506 shall include production, processing, and testing equipment used to manufacture products containing recovered materials.

(2) The provisions of § 26-51-506(d)(4) shall not apply.

(3) However, the qualified manufacturer of steel shall make a good faith effort to use recovered materials containing Arkansas post-consumer waste as a part of the materials used.

(c)(1) Except as provided in subdivision (c)(2) of this section, the refund provisions of Arkansas Code § 26-51-506(f) shall not apply to a qualified manufacturer of steel that has been certified under Section 5 of this act.

(2) The qualified manufacturer of steel shall refund the amount required under subdivision (c)(3) of this section if within three (3) years of the taxable year in which the credit originated:

(A)(i) The waste reduction, reuse, or recycling equipment is removed from Arkansas, disposed of, or transferred to another person, or the qualified manufacturer of steel otherwise ceases to use the required materials or operate in accordance with § 26-51-506 or this section.

(ii) Reorganization transactions, changes of ownership and control, and sales and transfers of waste reduction, reuse, or recycling equipment among affiliates which do not constitute sales or transfers to a third-party purchaser shall not be considered disposals, transfers, or cessations of use for purposes of § 26-51-506 or this section; or

(B) The Director of the Arkansas Department of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

(3) If the provisions of subdivision (c)(2) of this section apply, the qualified manufacturer of steel shall refund the amount of the allowed tax credit claimed by the qualified manufacturer of steel which exceeds the following amounts:

(A) Within the first taxable year, zero dollars (\$0.00);

(B) Within the second taxable year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(C) Within the third taxable year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(4) Any refund required by subdivision (c)(2)(A) of this section shall apply only to the credit given for the particular waste reduction, reuse, or recycling equipment to which that subdivision applies.

(5) A qualified manufacturer of steel that is required to refund part of a credit pursuant to this section shall no longer be eligible to carry forward any amount of that credit which had not been used as of the date the refund is required.

(6) A qualified manufacturer of steel aggrieved by a decision of the Director of the Arkansas Department of Environmental Quality under this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the commission and to the courts in the manner provided in Arkansas Code §§ 8-4-222 — 8-4-229.

(d) In the case of a qualified manufacturer of steel that is:

(1) A proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes, the amount of the credit determined under this section for any taxable year shall be apportioned to each proprietor, partner, member, or other owner in proportion to the amount of income from the entity which the proprietor, partner, member, or other owner is required to include in gross income or as otherwise provided for in the applicable ownership or operating agreements if at least one of the proprietor, partner, member or other owner of the organization is a public retirement system of the State of Arkansas;

(2) A Subchapter S corporation, the amount of credit determined shall be apportioned to each Subchapter S corporation shareholder in proportion to the amount of income from the entity which the Subchapter S corporation shareholder is required to include as gross income or as otherwise provided for in the applicable articles of incorporation or bylaws if at least one of the shareholders is a public retirement system of the State of Arkansas; or

(3) An estate or trust:

(A) The amount of the credit determined for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and

(B) Any beneficiary to whom any amount has been apportioned under this section shall be allowed, subject to the limitations contained in this section, a credit under this section for that amount.

SECTION 8. Amendment 82 Agreement Between The State Of Arkansas And Big River Steel, LLC.

AMENDMENT 82 AGREEMENT

Between

THE STATE OF ARKANSAS

And

BIG RIVER STEEL, LLC

Dated as of

MARCH ___, 2013

AMENDMENT 82 AGREEMENT

THIS AMENDMENT 82 AGREEMENT ("Agreement") is made and entered into by and between the State of Arkansas (the "State"); and Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware (the "Sponsor").

W-I-T-N-E-S-S-E-T-H

For valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Definitions. For purposes of this Agreement, the following terms and variations thereof (including the singular, plural, and possessive and the past, present, and future tense) shall have the following meanings:

"Act" shall mean and refer to the Arkansas Amendment 82 Implementation Act, A.C.A. § 15-4-3201 et seq., as amended through 2012.

"Actual Project Capital Expenditures" shall mean and refer to the total of: (a) the Qualifying Site Preparation Costs, including Piling Costs, and the Infrastructure Costs actually invested by, or on behalf of, the Sponsor at the Project Site; and (b) any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site.

"Advantage Arkansas Agreement" shall mean and refer to a Financial Incentive Agreement with the State for job creation tax credits as required pursuant to A.C.A. § 15-4-2705.

"Advantage Arkansas Program" shall mean and refer to the job creation tax credit program established by the Consolidated Incentive Act.

"Agreement" shall mean and refer to this Amendment 82 Agreement.

"Amendment 82" shall mean and refer to Amendment 82 to the Constitution of the State of Arkansas of 1874.

"Amendment 82 Financing" shall mean and refer to the funds to be provided by the State to, or for the benefit of, the Sponsor pursuant to the Grants and the Incentive Loan and the funds allocated to the reasonable and necessary closing costs and expenses of the State.

"Amendment 82 Requirements" shall mean and refer to the provisions of Amendment 82 and the Act, and other requirements imposed by legislation approving this Agreement.

"Announced Controlling Party" shall mean and refer to the Person who shall be proposed to be the successor to the Sponsor with respect to

the Project following a Change of Control Event.

“Authority” shall mean and refer to the Arkansas Development Finance Authority or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Authority pursuant to this Agreement.

“Bonds” shall mean and refer to the general obligation bonds issued by the State pursuant to the Amendment 82 Requirements in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) for the Amendment 82 Financing.

“Capital Commitments” shall mean and refer to: (a) the written commitments obtained by the Sponsor for private equity investments; (b) various other forms of capital including term loans and working capital financing; (c) written commitments obtained by the Sponsor for infrastructure; (c) incentives from the State including the Amendment 82 Financing and the incentives described in Section 8, but not those incentives described in Sections 9 and 10; (d) other incentives including amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site; and (e) other forms of financing, exclusive of the Amendment 82 Financing.

“Capital Commitment Documents” shall mean and refer to any documents evidencing the Capital Commitments and any such other documents, records, and other information as are reasonably necessary to describe the nature, terms and conditions, and amount or value of the Capital Commitments.

“Change of Control Event” shall have the meaning set forth in the Inter-Creditor Agreement that, when taken as a whole, is no less favorable to the State than a definition which includes the following events: (a) the sale or disposition of all or substantially all of the assets of the Project to a Non-related Entity; and (b) all such other events as may be defined in the Inter-Creditor Agreement.

“Chief Fiscal Officer” shall have the meaning set forth in the Act.

“Closing Date” shall mean and refer to the date of the issuance of the Bonds.

“Commission” shall mean and refer to the Arkansas Economic Development Commission or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Commission pursuant to this Agreement.

“Compensation Target” shall mean and refer to an average annual compensation with respect to the Direct Positions and Independent Direct Positions designated by the Sponsor of Seventy-five Thousand Dollars (\$75,000.00) per year, excluding any non-cash benefits.

“Confidential Business Information” shall have the meaning set forth in Section 15.

“Consolidated Incentive Act” shall mean and refer to the Consolidated Incentive Act of 2003, A.C.A. § 15-4-2701 et seq., as amended.

“Department” shall mean and refer to the Arkansas Department of Finance and Administration.

“Development Plan” shall mean and refer to the plans attached to Exhibit 1.

“Direct Positions” shall mean and refer to those employees: (a) who shall be designated by the Sponsor; (b) who shall hold Full Time Positions; and (c) who shall work directly for the Sponsor or a Related Entity at the Facility or on the Project Site.

“Employment Target” shall mean and refer to at least five hundred twenty-five (525) New Full Time Positions through either Direct Positions or Independent Direct Positions at the Facility or on the Project Site.

“Escrow Account” shall mean and refer to any interest earning escrow account administered by the Escrow Agent pursuant to an Escrow Agreement.

“Escrow Agent” shall mean and refer to any Person appointed by the State as an escrow agent with respect to funds or items to be held or disbursed by the State pursuant to the terms and conditions of this Agreement.

“Escrow Agreement” shall mean and refer to any escrow agreement with any Escrow Agent.

“Exhibit” shall mean and refer to an exhibit specifically referred to in this Agreement that shall be either attached to this Agreement or delivered by a Party in conjunction with the execution and delivery of this Agreement.

“Facility” shall mean and refer to the Mini Mill steel manufacturing facility and all related buildings and infrastructure to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“Financial Incentive Agreement” shall mean and refer to the financial incentive agreements described in the Consolidated Incentive Act.

“Full Time Position” shall mean, when referring to a position or job, a position or job filled for at least nine (9) months during a calendar year with an average of at least thirty (30) hours of work each week.

“General Assembly” shall mean and refer to the Senate and the House of Representatives of the State.

“Governmental Authority” shall mean and refer to any executive, legislative, or judicial branch, or any agency, department, board, commission, council, court, tribunal, official, task force, or other authority exercising governmental powers of the United States of America or the State.

“Governor” shall mean and refer to the Governor of the State.

“Grants” shall mean and refer collectively to the cash grant for Qualifying Site Preparation Costs as described in Section 6.2 and the cash grant for Piling Costs as described in Section 6.3.

“Incentive Loan” shall mean and refer to the loan of money as described in Section 6.4.

“Incentive Loan Collateral” shall mean and refer to that part of the Infrastructure described in Exhibit 2 and all accessions, substitutions, and replacements thereto or thereof, whether now owned or hereafter

acquired and all proceeds thereof whether of the same or different class.

“Incentive Loan Documents” shall mean and refer to the promissory note, security agreement, mortgage, financing statement, fixture statement, and other documents entered into between the Authority and the Sponsor with respect to the Incentive Loan.

“Independent Direct Positions” shall mean and refer to those employees and independent contractors of Non-related Entities who shall be designated by the Sponsor and who hold Full Time Positions at the Facility or on the Project Site with the primary objective of providing any of the following products and services necessary to the operation, maintenance, or repair of any part of the Project: (1) slag handling operations; (2) oxygen and hydrogen production operations; (3) roll shop operations; (4) maintenance shop operations; (5) scrap handling and processing operations; (6) material management operations; (7) logistic operations; (8) site maintenance; or (9) any other support services at the Facility or on the Project Site as approved by the Commission.

“Infrastructure” shall mean and refer to the buildings, fixtures, machinery, and equipment acquired, developed, constructed, and operated at the Project Site and includes the Facility.

“Infrastructure Costs” shall mean and refer to the costs and expenses paid or incurred by, on behalf of, the Sponsor with respect to the acquisition, development, construction of the Infrastructure at the Project Site, but shall not include any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas.

“Inter-Creditor Agreement” shall mean and refer to the inter-creditor agreement among the Authority and all Senior Term Lenders to the Project and all other Persons who may claim any interest in the Incentive Loan Collateral and certain other Persons.

“Investment Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to make a minimum capital investment of One Billion Twenty-three Million Five Hundred Ninety Thousand Dollars (\$1,023,590,000.00) in Actual Project Capital Expenditures.

“Investment Threshold” shall mean and refer to the investment by the Sponsor of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Actual Project Capital Expenditures for the use and benefit of the Project at the Project Site.

“Joint Marketing Agreement” shall mean and refer to the joint marketing agreement to be entered into between the Commission and the Sponsor prior to the Closing Date.

“Letter of Commitment” shall mean and refer to the letter of commitment entered into pursuant to the Amendment 82 Requirements between the Commission and the Sponsor as of January 28, 2013.

“Mini Mill” shall mean and refer to the steel manufacturing facility to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“New Full Time Position” shall mean and refer to a permanent Full

Time Position at the Facility or the Project Site that was created after the date of this Agreement.

“Non-related Entity” shall mean and refer to any Person that shall not meet the definition of a Related Entity.

“Office of Economic and Tax Policy” shall mean and refer to the Office of Economic and Tax Policy of the Arkansas Bureau of Legislative Research.

“Party” shall mean and refer to either or both of the State and the Sponsor.

“Person” shall mean and refer to any Party, individual, entity, corporation, company, association, limited liability company, joint venture, general partnership, limited partnership, organization, Governmental Authority, revocable trust, irrevocable trust, estate, personal representative, executor, trustee, receiver, liquidator, or other person.

“Piling Costs” shall mean and refer to those Qualifying Site Preparation Costs directly related to that part of the Facility on which the Mini Mill shall be situated and that shall be necessary for subsurface stabilization of the Mini Mill. “Piling Costs” include costs and expenses related to piling, subsurface stabilization, engineering, grading, footers, dewatering, excavation and foundation preparation, all installation, material and labor costs and expenses directly related to the foregoing, and all other necessary subsurface stabilization costs and expenses incidental to the Piling Costs.

“Position Creation Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to achieve and maintain the Employment Target and the Compensation Target.

“Preliminary Period” shall mean and refer to a term of thirty-six (36) months commencing on the Closing Date and continuing until the third anniversary thereof.

“Project” shall mean and refer to the acquisition, development, construction, and operation of the Facility at the Project Site in a manner that shall satisfy the Investment Requirement and that shall achieve and maintain the Position Creation Requirement.

“Project Site” shall mean and refer to the location of the Project in Mississippi County, Arkansas as described in Exhibit 3.

“Qualified Amendment 82 Project” shall have the meaning set forth in the Act.

“Qualifying Site Preparation Costs” shall mean and refer to the following costs and expenses of the Project at the Project Site: removal of trees, removal of structures, site clearing activities, grubbing, grading, environmental remediation costs, excavation and other earthwork, fill dirt, compaction, erosion control, installation of drainage and storm water detention, fencing, installation of temporary and permanent internal roads, footers and building foundations, on-site rail installation, on-site public infrastructure improvements or construction, engineering costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and that shall be approved by the State.

“Recycling Credit Legislation” shall mean and refer to an act to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) in connection with a facility located in the State of Arkansas and that create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

“Recycling Equipment Tax Credit Program” shall mean and refer to the program with such name established under A.C.A. § 26-51-506.

“Related Entity” shall have the meaning set forth in A.C.A. § 15-4-3202 (24) (2011 Revision).

“Repayment Calculations” shall mean and refer to the formulae set forth in Section 11 and Section 14 to be used if the Sponsor shall fail to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement as set forth in this Agreement.

“Repayment Penalties” shall mean and refer to the penalties payable by the Sponsor as determined by the Repayment Calculations.

“Request for Disbursement” shall mean and refer to a request by the Sponsor with respect to a disbursement of the Grants or the Incentive Loan in the form to be reasonably approved by the State and the Sponsor.

“Senior Term Lenders” shall mean and refer to those senior secured term lenders to the Project who shall be required to join as a party to the Inter-Creditor Agreement, as reasonably determined by the Authority and the Sponsor.

“Sponsor” shall mean and refer to Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware.

“State” shall mean and refer to the State of Arkansas.

“Tax Back Program” shall mean and refer to the investment tax incentives program established by the Consolidated Incentive Act at A.C.A. § 15-4-2706.

“Termination Date” shall mean and refer to June 30, 2014.

“Test Date” shall mean and refer to the date on which the Preliminary Period shall expire and the anniversary of such date during each year of the Testing Period.

“Testing Period” shall mean and refer to a term of fifteen (15) years commencing upon the expiration of the Preliminary Period and continuing until the eighteenth (18th) anniversary of the Closing Date.

“Training Agreement” shall mean and refer to the training agreement to be entered into between the Commission and the Sponsor with respect to the assistance to be provided by the Commission to the Sponsor in the recruitment and training of employees and independent contractors.

“Utility Tax Legislation” shall mean and refer to an act to provide a full exemption of state sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel

mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

2. Project. Subject to the terms and conditions of this Agreement, the Sponsor shall: (a) acquire, develop, construct, and operate the Facility at the Project Site; (b) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (c) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (d) maintain the Position Creation Requirement during the Test Period. The Facility shall be acquired, developed, and constructed as generally described in the Development Plan.

3. Investment Requirement.

3.1. Capital Commitments. The Project shall require a minimum capital investment at the Project Site in Actual Project Capital Expenditures of at least the Investment Requirement. The Sponsor shall satisfy the Investment Requirement by no later than the expiration of the Preliminary Period. Prior to the Termination Date, the Sponsor shall raise Capital Commitments in the form of private equity investments of a minimum of Three Hundred Million Dollars (\$300,000,000.00), and the Sponsor shall obtain other Capital Commitments.

3.2. Escrow of Capital Commitments. When the Sponsor shall have raised such minimum of Capital Commitments in the form of private equity investments and shall have obtained such other Capital Commitments to satisfy the Investment Requirement as described in Section 3.1, the Sponsor shall: (a) deposit into escrow with the Escrow Agent cash or irrevocable letters of credit with a total value of at least Three Hundred Million Dollars (\$300,000,000.00); (b) provide a written summary to the Commission and the Authority of the other Capital Commitments as shall be necessary to satisfy the Investment Requirement; and (c) provide a copy of all of the Capital Commitment Documents to the Commission and the Authority. The Sponsor shall reasonably cooperate with the Commission and the Authority with respect to any review of the Capital Commitment Documents. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall not provide the Sponsor with sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall provide written notice thereof to the Sponsor within five (5) business days from the receipt of the Capital Commitment Documents, and the Sponsor shall have until the Termination Date to raise Capital Commitments in the form of private equity investments and to obtain other Capital Commitments to satisfy the Investment Requirement. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall provide the Sponsor with the sufficient financial capability to satisfy the Investment Requirement by the expiration of

the Preliminary Period, the Commission and the Authority shall send written notice thereof to the Sponsor and the Closing Date and the issuance of the Bonds shall be scheduled for a date within fifteen (15) calendar days after receipt of all the Capital Commitment Documents by the Commission and the Authority.

3.3. Local Investment. Prior to the expiration of the Preliminary Period, the Sponsor shall use its reasonable efforts to spend Two Hundred Fifty Million Dollars (\$250,000,000.00) for products and services from vendors and suppliers based in the State.

4. Position Creation Requirement. Prior to the expiration of the Preliminary Period, the Sponsor shall achieve the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. During the Testing Period, the Sponsor shall maintain the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. The New Full Time Positions required by the Position Creation Requirement shall include those Direct Positions and Independent Direct Positions designated by the Sponsor. The Employment Target and the Compensation Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which constitute Full Time Positions during the calendar year in question.

5. Time Periods.

5.1. Closing Date. The Parties anticipate that the Closing Date shall occur prior to December 31, 2013, but the Closing Date may occur on any date prior to the Termination Date.

5.2. Project Schedule. The acquisition, development, and construction of the Project by the Sponsor is currently scheduled to commence promptly following the Closing Date, and is currently scheduled to be substantially completed within twenty-four (24) months after the Closing Date. The Sponsor currently anticipates that commercial production by the Facility shall commence approximately twenty-four (24) months after the Closing Date.

5.3. Termination. In the event the conditions to Closing set forth in Sections 12 and 13 of this Agreement shall have not been satisfied or waived on or before the Termination Date, either the State or the Sponsor may send written notice of termination to the other Party and thereafter the Parties shall have no further obligations pursuant to this Agreement and the Sponsor shall no longer be required to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement.

5.4. Preliminary Period. The Preliminary Period is intended to be the period during which the acquisition, development, and construction of the Project shall be completed. The Sponsor shall satisfy the Investment Requirement and shall achieve the Position Creation Requirement not later than the expiration of the Preliminary Period.

5.5. Testing Period. The Testing Period is intended to be the period during which the compliance with the Position Creation Requirement may be evaluated and during which the Repayment Penalties may be

imposed. The Sponsor shall maintain the Position Creation Requirement during the Testing Period.

5.6. Other Periods. Except as provided in this Agreement with respect to the Investment Requirement and the Position Creation Requirement, the Sponsor shall comply with the terms and conditions of this Agreement commencing as of the date of this Agreement and continuing until the expiration of the Testing Period. The Sponsor hereby waives any right to extend any time period specified in this Agreement as set forth in A.C.A. § 15-4-3206.

6. Amendment 82 Financing.

6.1. Bonds. Subject to the terms and conditions of this Agreement and the Amendment 82 Requirements, the State shall provide funding from the Amendment 82 Financing to, or for the benefit of, the Sponsor in an aggregate amount up to One Hundred Twenty Million Dollars (\$120,000,000.00). The Amendment 82 Financing shall be funded through issuance of the Bonds in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) in the aggregate. The Bonds shall be in such denominations and series and upon such terms and conditions as determined by the Authority, in its sole and absolute discretion. The Bonds shall be direct general obligations of the State for the payment of debt service on which the full faith and credit of the State shall be pledged. The Bonds shall be payable from gross general revenues or special revenues appropriated by the General Assembly.

6.2. Grant for Qualifying Site Preparation Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor a cash grant in the amount of Fifty Million Dollars (\$50,000,000.00) for payment or reimbursement of Qualifying Site Preparation Costs.

6.3. Grant for Piling Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor an additional cash grant in an amount up to Twenty Million Dollars (\$20,000,000.00) for reimbursement of Piling Costs. Reimbursement by the State for Piling Costs shall be: (a) on a matching basis in which the State shall reimburse the Sponsor one-half (½) of eligible Piling Costs paid by the Sponsor; and (b) the maximum amount of Piling Costs to be reimbursed by the State shall be limited to not more than Twenty Million Dollars (\$20,000,000.00) out of a total of Forty Million Dollars (\$40,000,000.00) or more of Piling Costs.

6.4. Incentive Loan. Subject to the terms and conditions of this Agreement and the Incentive Loan Documents, the Authority shall make the Incentive Loan to the Sponsor as follows:

(a) Amount Funded; Principal Amount. In order to fund the Incentive Loan and in consideration of the Sponsor's promissory note evidencing the Incentive Loan, the Authority will make available from the Bond proceeds the sum of Fifty Million Dollars (\$50,000,000.00) for disbursement to the Sponsor under Section 7 hereof. The promissory note evidencing the Incentive Loan shall be in a principal amount equal to Fifty Million Dollars (\$50,000,000.00).

(b) Incentive Loan Collateral. The proceeds of the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes. The Incentive Loan shall be secured by a first priority, perfected, purchase-money lien and security interest in the Incentive Loan Collateral subject to the terms and conditions of the Inter-Creditor Agreement.

(c) Debt Service. Interest will accrue on the Incentive Loan at the rate payable on the Bonds issued to fund the Incentive Loan, beginning twenty-four (24) months after the Closing Date. The payment of principal and interest due on the Incentive Loan shall be structured as nearly as possible to correspond with debt service payments due on the Bonds issued to fund the Incentive Loan (excepting interest accruing on such Bonds during the first twenty-four (24) months following their date of issuance, which shall be fully borne by the State). The first payment of debt service on the Incentive Loan is projected at this time to be due from the Sponsor on the first day of the thirtieth (30th) month following the Closing Date. A debt service schedule detailing the semiannual debt service payments due on the Incentive Loan (and the principal and interest components thereof) will be attached to the promissory note evidencing the Incentive Loan. In no event shall the total debt service payments due on the Incentive Loan or the net present value of such payments exceed the total debt service payments, or the net present value of such payments, due on the Bonds issued to fund the Incentive Loan. For purposes of determining the net present value of such total debt service payments, the total debt service payments will be discounted at a rate equal to the lesser of the true interest cost on the Bonds issued to fund the Incentive Loan or the rate agreed upon by the Authority and the Sponsor with respect to the Bonds issued to fund the Incentive Loan.

(d) Term. The Incentive Loan shall have a term of twenty (20) years commencing on the Closing Date.

(e) Prepayment. The Sponsor may prepay the Incentive Loan in whole or in part without penalty at any time beginning twenty-four (24) months after the Closing Date. The portion of any repayment in part that is attributable to principal shall be applied to satisfy principal component(s) of the Bonds issued to fund the Incentive Loan being redeemed in connection with the prepayment and the Authority shall promptly thereafter provide a revised debt service schedule for approval by the Sponsor and attachment to the promissory note. In the event the Sponsor meets the conditions in this Section 6.4(e) and the Sponsor elects to prepay the Incentive Loan in full prior to the expiration of forty-eight (48) months after the Closing Date, the prepayment amount shall be equal to Forty-five Million Dollars (\$45,000,000.00) million less any principal amount of the Incentive Loan previously paid by the Sponsor plus any accrued interest on the Incentive Loan outstanding through the prepayment

date. To qualify for the discount of the prepayment amount, both of the following conditions must be met: (1) within four (4) years after the Closing Date the Sponsor shall have obtained Capital Commitments, as audited and verified by the Commission and Authority, of at least Five Hundred Million Dollars (\$500,000,000.00) (in addition to the Investment Requirement) with respect to an expansion of the steel mill operations of the Sponsor at or near the Project Site; and (2) construction of such expansion shall have commenced prior to the date of the receipt of the prepayment by the State.

6.5. Other Costs. An amount up to Five Million Dollars (\$5,000,000.00) may be funded through the Bonds for the purpose of paying reasonable and necessary closing costs and expenses of the State, in the sole and absolute discretion of the Authority, including those that relate to the issuance of the Bonds and including costs and expenses due to those trustees, agents, underwriters, attorneys, advisors, and consultants performing services on behalf of the State in connection with the Project. The Sponsor shall not be responsible for any of such costs and expenses.

6.6. Related Entities. In the event that the Sponsor may elect for any part of the Amendment 82 Financing to be paid to or received by a Related Entity to the Sponsor, the Sponsor shall notify the Commission and the Authority. As a prior condition to the payment or receipt of any part of the Amendment 82 Financing, such Related Entity of the Sponsor shall execute and deliver a joinder to this Agreement in which such Related Entity shall agree to comply with all of the terms and conditions of this Agreement.

7. Disbursement.

7.1. Investment Threshold. Prior to any disbursement of funds by the State with respect to the Grants or the Incentive Loan, the Sponsor shall provide written confirmation to the Commission and the Authority that the Sponsor has achieved the Investment Threshold by investment of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Qualifying Site Preparation Costs, Piling Costs, and Infrastructure Costs. The Commission and the Authority shall have the right to audit and verify the investment of the Investment Threshold before disbursing funds to, or for the benefit of the Sponsor, with such audit and verification to be conducted in a timely manner. After the Investment Threshold shall have been achieved, the Actual Project Capital Expenditures that comprise the Investment Threshold may be eligible for reimbursement through a disbursement from the Grants or the Incentive Loan, as applicable.

7.2. Generally. All funds to be disbursed by the State with respect to the Grants and Incentive Loan shall require the prior approval of the Commission and the Authority. All funds to be disbursed by the State with respect to the Grants and the Incentive Loan shall be disbursed to, or for the benefit of, the Sponsor, for payment or reimbursement of qualified project costs and expenses permitted by the Amendment 82 Requirements with such qualified project costs and expenses to include

Qualifying Site Preparation Costs, Infrastructure Costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and approved as eligible by the State. The disbursement of funds with respect to the Incentive Loan shall also be subject to the terms and conditions of the Incentive Loan Documents.

7.3. Procedure. Subject to the terms and conditions of this Agreement, the Grants and the Incentive Loan shall be disbursed by the State to, or for the benefit of, the Sponsor in one (1) or more disbursements. The Sponsor may request a disbursement from the Grants or the Incentive Loan by submitting a Request for Disbursement to the Commission and the Authority. The Request for Disbursement shall specify the requested source of funding from either the Grants or the Incentive Loan. A Request for Disbursement shall include an itemization of each cost and expense for which the Sponsor may request payment or reimbursement. In support of a Request for Disbursement, the Sponsor shall provide a copy of all receipts, invoices, bills, statements, checks, payments, orders, correspondence, notices, and other documents sent, received, or exchanged with respect to each cost and expense identified in the Request for Disbursement. The Sponsor shall provide the State with full access to all documents, records, and other information in the possession of or available to the Sponsor that may relate to each cost and expense identified with respect to a Request for Disbursement. The State may audit and verify all such documents, records, and other information and may take all other reasonable actions to verify that each cost and expense identified with respect to a Request for Disbursement shall have been actually paid or incurred by the Sponsor, the reasonableness of the nature and amount of the cost and expense, and whether the cost and expense may be properly characterized as Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, or other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. Upon completion of the audit and verification by the State of the costs and expenses identified in a Request for Disbursement, the Authority shall send a Notice of Payment to the Sponsor setting forth the amount approved by the Commission and the Authority to be disbursed by the State with respect to the costs and expenses identified in a Request for Disbursement and the source of funding from either the Grants or the Incentive Loan. Within five (5) business days after the date of a Notice of Payment, the State shall cause the amount set forth in the Notice of Payment to be disbursed to, or for the benefit of, the Sponsor by wire transfer to the account of the Sponsor designated in the Request for Disbursement.

7.4. Eligible Costs and Expenses. A Request for Disbursement may request reimbursement of Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. A Request for Disbursement may include only such costs and expenses that constitute Qualifying Site Preparation Costs, Infrastructure Costs,

Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. With respect to any cost and expense that shall not constitute Qualifying Site Preparation Costs, Infrastructure Costs, or Piling Costs, the State shall determine whether such other cost and expense shall be incidental to the Project and whether such cost and expense shall be eligible for Amendment 82 Financing. A Request for Disbursement may not include any cost or expense that shall have been included in any prior Request for Disbursement. All Requests for Disbursement must be submitted by the Sponsor to the State no later than twenty-four (24) months after the Closing Date.

8. Training Benefits. The Commission shall assist the Sponsor in recruiting and training employees and independent contractors who shall work at the Facility or on the Project Site. The Commission and the Sponsor shall enter into the Training Agreement regarding the assistance to be provided to the Sponsor. Subject to the terms and conditions of this Agreement and the Training Agreement, the Commission shall fund up to Ten Million Dollars (\$10,000,000.00) by payment or reimbursement of costs and expenses paid or incurred by the Sponsor for training activities and facilities with respect to the employees and independent contractors who shall work at the Facility or on the Project Site. The funds disbursed to, or for the benefit of, the Sponsor for such training activities and facilities shall be in addition to the Amendment 82 Financing described in this Agreement and shall be spread equally over a period of two (2) years based on a schedule of on-the-job training determined by the Sponsor in consultation with the Commission. The assistance to be provided by the Commission pursuant to the Training Agreement shall include the following support services: (a) recruitment advertising for new employees; (b) securing the use of facilities for accepting applications and interviewing new employees; (c) reproduction of training manuals; (d) reimbursement of compensation to instructors for on-the-job training (up to, but not to exceed actual hourly rate of pay); (e) on-site training facility space; and (f) reimbursement for train-the-trainer expenses, including reasonable expenses of travel. Requests for reimbursement shall provide the Commission, at a minimum, with the information described in paragraphs I(A) and I(B) of the form of Training Agreement.

9. Other Incentive Programs.

9.1. Advantage Arkansas Program. The Sponsor may be eligible for a job creation income tax credit provided pursuant to the Advantage Arkansas Program. The Advantage Arkansas Program provides an income tax credit against a portion of State income tax liabilities based upon a percentage of the annual payroll paid to the new full time permanent employees hired as a result of an approved project. To receive the income tax credit of the Advantage Arkansas Program, the Sponsor must enter into a Financial Incentive Agreement. The tier of the county in which the approved project is located determines the qualifying payroll threshold, as well as the income tax benefit calcula-

tion. Counties are segmented into four (4) tiers based on poverty rate, population growth, per capita income, and unemployment rate. Based on the location of the Project Site, the Sponsor may be entitled to an income tax credit up to four percent (4%) of the total taxable wages paid to new full time permanent employees hired after the date of the Financial Incentive Agreement. The annual payroll thresholds of the new employees must be met within twenty-four (24) months following the date the Financial Incentive Agreement is signed by the Commission. Employees must be taxpayers of the State to qualify for the credit. The income tax credit begins in the year in which the new employees are hired and is earned each tax year for a period of five (5) years. Any unused credits can be carried forward for nine (9) years beyond the year in which they were earned. The Sponsor may apply the credit to its State income tax liability, not to exceed fifty percent (50%) of the total income tax liability for a reporting period. The income tax credit provided by the Advantage Arkansas Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.2. Tax Back Program. The Sponsor may be eligible for a refund of state and local sales and use taxes provided pursuant to the Tax Back Program. The Tax Back Program provides for a refund of a portion of state and local sales and use taxes paid on certain purchases of material used in the construction of a building or buildings and on purchases of taxable machinery or equipment to be located in or in connection with such building or buildings. To qualify for the refund provided by the Tax Back Program, the Sponsor must: (a) invest a minimum of One Hundred Thousand Dollars (\$100,000.00); (b) execute the Advantage Arkansas Agreement within the appropriate time as required by applicable law; and (c) submit a completed application accompanied by a local endorsement resolution from the city, county or both where the Project Site is located and which authorizes the refund of its local taxes to the Sponsor. The refund shall not include the portion of the sales tax dedicated to the Educational Adequacy Fund described in A.C.A. § 19-5-1227 and the Conservation Tax Fund as described in A.C.A. § 19-6-484. These two (2) exceptions reduce the refund by one percent (1%). Currently, the State sales tax rate is six percent (6%), and therefore, the refund of State taxes shall be based upon five percent (5%) of the eligible taxable purchases. The refund of local taxes shall be based on the sales tax rate for the city and county where the Project Site is located. The refund provided by the Tax Back Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.3. Recycling Equipment Tax Credit Program. The Sponsor may be eligible for an income tax credit provided pursuant to the Recycling Equipment Tax Credit Program. The Recycling Equipment Tax Credit Program provides for an income tax credit for thirty percent (30%) of the cost of eligible equipment and installation costs and expenses. Eligibility for the Recycling Equipment Tax Credit Program is determined by the Arkansas Department of Environmental Quality. If the

Sponsor otherwise qualifies for the Recycling Equipment Tax Credit it may also qualify under the Recycling Credit Legislation to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.4. Utility Tax. The Sponsor may be eligible for a reduced rate of sales taxes with respect to purchases of electricity and natural gas used directly in the manufacturing process. The Utility Tax Legislation will provide a full exemption of sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.5. Machinery & Equipment Tax Exemptions. The Sponsor may be eligible for an exemption from state and local sales and use taxes with respect to purchases of machinery and equipment used directly in manufacturing for a new manufacturing facility or to replace existing machinery and equipment for a manufacturing facility. Machinery and equipment required by the State's laws to be purchased for air or water pollution control shall be also exempt.

10. Joint Marketing Agreement. The Commission and the Sponsor shall enter into the Joint Marketing Agreement whereby each shall commit to spend up to One Hundred Fifty Thousand Dollars (\$150,000.00) per calendar year for each of three (3) years beginning no later than twelve (12) months after the Closing Date, to market and advertise steel companies based in the State to out-of-state suppliers, vendors, and customers for the purpose of marketing the State as the right place for out-of-state suppliers, vendors, and customers to locate their business or to market or consume the products produced by steel companies based in the State. The expenditures by the Commission with respect to the Joint Marketing Agreement shall be in addition to the Amendment 82 Financing described in this Agreement.

11. Consequences of Unsatisfied Obligations.

11.1. Generally. The Sponsor shall pay to the State certain amounts to be determined by the applicable Repayment Calculations set forth in this Section 11 in the event the Sponsor shall fail to: (a) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (b) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (c) maintain the Position Creation Requirement during the Test Period. The total amount to be paid by the Sponsor pursuant to any or all of the Repayment Calculations shall not exceed the maximum amount of the lesser of: (i) Seventy Million Dollars (\$70,000,000.00) or (ii) the total amount disbursed by the State pursuant to the Grants. Any amounts determined to be due

from the Sponsor to the State pursuant to this Section 11 shall be paid by the Sponsor to the State not later than thirty (30) days following the receipt of written notice by the Sponsor from the Commission. In no case shall the Sponsor be entitled to additional funds from the State as a result of the Repayment Calculations.

11.2. Repayment Calculation — Investment Requirement. If, at the expiration of the Preliminary Period, the Sponsor has made or caused to be made Actual Project Capital Expenditures of less than One Billion Dollars (\$1,000,000,000.00), the Sponsor shall pay to the State an amount equal to one-half of one percent (0.50) of the difference between One Billion Dollars (\$1,000,000,000.00) and the Actual Project Capital Expenditures.

11.3. Repayment Calculation — Employment Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has not achieved and maintained the Employment Target, but employs at least fifty-five (55) individuals in Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the total qualified Direct Positions and Independent Direct Positions to five hundred twenty-five (525), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.3 on the first Test Date at the expiration of the Preliminary Period, the Employment Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which are filled on a full-time basis of at least thirty (30) hours per week for a period of four and one-half months (4 1/2) months during the six (6) months prior to the first calculation pursuant to this Section 11.3.

11.4. Repayment Calculation — Compensation Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has employed a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, but has not met the Compensation Target, the Sponsor upon written notice shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the average annual compensation of all those Direct Positions and Independent Positions as designated by the Sponsor to Seventy-five Thousand Dollars (\$75,000.00), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.4 on the first Test Date at the expiration of the Preliminary Period, the average annual compensation shall be calculated by using the amount of compensation paid during months thirty-one (31) through thirty-six (36) after the Closing Date to full-time Direct Positions and Independent Direct Positions designated by the Sponsor and then multiplied by two (2).

11.5. Repayment Calculation — After Preliminary Period. If, at any

time after the expiration of the Preliminary Period, as measured annually on the Test Date, the Sponsor shall not maintain a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) multiplied by the number of years, beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Sections 11.2, 11.3, and 11.4.

11.6. Tax Incentive Penalties. The repayment obligations described in this Section 11 shall be in addition to any provisions of the State's laws pertaining to repayment, recalculation, or penalties in the event the Sponsor shall receive a benefit or economic incentive, including the Amendment 82 Financing described in this Agreement, for which the Sponsor shall later be deemed to have been ineligible.

11.7. Other. In the event that the Sponsor shall fail to comply with the terms and conditions of this Agreement other than those terms and conditions relating to the Investment Requirement and the Position Creation Requirement, the Sponsor may also be subject to penalties or remedies permitted by applicable law.

12. Conditions of the State. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the State pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

12.1. Negotiation and execution of all documents pertaining to the issuance of the Bonds on terms and conditions satisfactory to the State.

12.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the State.

12.3. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

12.4. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

12.5. Negotiation and execution of the Inter-Creditor Agreement on terms and conditions satisfactory to the State.

12.6. Negotiation and execution of the Escrow Agreement for the Capital Commitments on terms and conditions satisfactory to the State.

12.7. The closing of all transactions in connection with the Capital Commitments.

12.8. The Bonds shall have been sold and delivered by the

Authority on terms and conditions satisfactory to the State.

12.9. All of the covenants and obligations that the Sponsor is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

13. Conditions of the Sponsor. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the Sponsor pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

13.1. Satisfactory negotiation and execution of all documents pertaining to the issuance of the Bonds.

13.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the Sponsor.

13.3. Negotiation and execution of the Advantage Arkansas Agreement, the Escrow Agreement with respect to the Capital Commitments, the Financial Incentive Agreement, the Joint Marketing Agreement, the Training Agreement, and all other contracts specifically identified in this Agreement on terms and conditions satisfactory to the Sponsor.

13.4. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

13.5. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

13.6. Approval by the Sponsor of the Capital Commitments and the closing of all transactions in connection with the Capital Commitments.

13.7. Negotiation and execution of an agreement between the Sponsor and Mississippi County, the City of Osceola, Arkansas or another local entity for the acquisition and lease of the Project Site on terms and conditions satisfactory to the Sponsor.

13.8. Issuance of the relevant Governmental Authorities of the State of all required environmental, construction, and operating permits prior to the Closing Date.

13.9. Negotiation and execution of a satisfactory long-term electrical power contract for the Facility on terms and conditions satisfactory to the Sponsor.

13.10. All of the covenants and obligations that the State is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

14. Due on Sale.

14.1. No Assumption. If a Change of Control Event is announced by the Sponsor and the Announced Controlling Party shall not agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, the Sponsor shall, upon written notice by

the Commission and the Authority, cause the Announced Controlling Party to pay to the State prior to consummation of the Change of Control Event an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; and (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Section 11 as a result of failing to achieve and maintain the Employment Target or the Compensation Target.

14.2. Assumption Subsequent to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor subsequent to the Investment Requirement having been satisfied and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determine that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party prior to consummation of the Change of Control Event to fund an Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period divided by two (2) with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from such Escrow Account equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party maintains the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the Change of Control Event and the end of the Preliminary Period, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. The rights of the State upon a Change of Control Event will include, among other rights, the proportional right to vote alongside all other Senior Term Lenders on matters related to any Change of Control Event. The Commission and the Authority shall not have the right to seek the establishment of the Escrow Account if a majority of the Senior Term Lenders inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party, commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms and conditions as those in existence immediately prior to

the execution of definitive documents related to the Change of Control Event. A majority of the Senior Term Lenders shall be determined by the amounts due by the Sponsor to each such Senior Term Lender inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party immediately prior to the execution of definitive documents related to the Change of Control Event.

14.3. Assumption Prior to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor prior to the Investment Requirement having been met and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determines that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party, prior to consummation of the Change of Control Event, to fund the Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year during the Test Period in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from the Escrow Account equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party shall achieve and maintain the Employment Target and the Compensation Target for the six (6) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. If the Announced Controlling Party shall fail to achieve and maintain the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released to the State and shall become the property of the State and neither the State, the Commission, nor the Authority shall have any obligation to make any of such funds available to the Announced Controlling Party or any other Person. The Commission and the Authority shall have the right to seek the establishment of the Escrow Account whether or not a majority of the Senior Term Lenders commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event.

14.4. Assumption Prior to End of Availability of Economic Incen-

tives. If a Change of Control Event is announced by the Sponsor, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor prior to the announcement of the Change of Control Event shall no longer be available to either the Sponsor or the Announced Controlling Party. If the announced Change of Control Event shall not be consummated and no more than nine (9) months have elapsed since the Change of Control Event was first announced and the Sponsor provides written notice that the announced Change of Control Event shall not be consummated, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor shall be reinstated and shall be available to the Sponsor as set forth in this Agreement, to the extent consistent with applicable law.

15. Confidentiality and Non-Disclosure. The Parties recognize that certain information and records provided by the Sponsor to the Commission or the Authority include trade secrets or other information which, if disclosed, would give advantage to competitors of the Sponsor, or include records related to the Sponsor's planning, site location, expansion, operations, product development or marketing (collectively, "Confidential Business Information"). Such records are generally exempt from public disclosure under the terms of the Arkansas Freedom of Information Act, A.C.A. § 25-19-101 et seq. Neither the Parties to this Agreement nor any Related Entity, affiliate, or representative of any Party, shall make any disclosure of Confidential Business Information without the prior written consent of any other Party; provided however, that a Party may make such a disclosure without the consent of any other Party if the disclosure is: (a) compelled by legal, accounting, or regulatory requirements applicable to and beyond the reasonable control of the Party; (b) necessary to proceed with the intentions and agreements contained in this Agreement as they specifically relate to any Related Entity, affiliate, or representative of any Party; (c) necessary to obtain legislative approval of the undertakings set forth in this Agreement; or (d) required under applicable law binding upon the disclosing Party. The Party making a disclosure described in (c) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party. The Party making a disclosure described in (a) or (d) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party if the disclosing Party can do so and still comply with the requirement or law compelling the disclosure; otherwise the disclosing Party shall give written notice contemporaneously with or as soon as reasonably practicable following the disclosure.

16. Incentives Not Accepted. To the extent that the Sponsor shall not accept for whatever reason any portion of the funds or economic incentives set forth in this Agreement, neither the State, the Commission, nor the Authority shall have any obligation to replace the value of the funds or economic incentives not accepted, inclusive of the value of any matching funds, with other funds or economic incentives.

17. Public Reporting Requirements. The Sponsor acknowledges and agrees to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with the State by providing such documents, records, and other information to the State as may be necessary to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with all audits and verifications by the State, including without limitation the Commission and the Authority, of all accounts related to the construction, operation, and maintenance of the Project. The Sponsor shall maintain and make available all documents, records, and other information pertaining to items contained in the terms and conditions of this Agreement for annual audit by the Chief Fiscal Officer, and upon request, but no more often than annually, by the Office of Economic and Tax Policy or a Person retained by the Office of Economic and Tax Policy. The Sponsor shall comply with all auditing and reporting requirements of any state or federal regulatory agency or other Governmental Authority that may have jurisdiction over the Sponsor. The Sponsor shall cause all Related Entities of Sponsor who receive Amendment 82 Financing to comply with the reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision).

18. Reporting of Independent Direct Positions. The Sponsor shall cause each Person that employs or contracts with an individual holding an Independent Direct Position to provide to the State such documents, records, and other information as may be necessary to comply with the audit requirements of the Act, including those set forth in A.C.A. §§ 15-4-3206 (2011 Revision). For the purposes of Sections 4 and 11 of this Agreement no position or job may be counted as an Independent Direct Position unless the person who employs or contracts the individual holding such position or job fully complies with the State's requests for information necessary to comply with the audit and reporting provisions of the Act.

19. Representations and Warranties. In order to induce the State to enter into this Agreement, the Sponsor hereby represents and warrants to the State as follows:

19.1. Names. The correct legal name of the Sponsor is "Big River Steel, LLC".

19.2. Organization of the Sponsor. The Sponsor is a limited liability company duly organized, validly existing, and in good standing pursuant to the laws of the State of Delaware. The Sponsor is duly licensed and qualified as a foreign limited liability company with the State.

19.3. Authorization. The Sponsor has full power and authority to execute and deliver this Agreement and to perform the obligations of the Sponsor pursuant to this Agreement. The Sponsor has duly autho-

rized the execution, delivery, and performance of this Agreement. This Agreement constitutes the valid and legally binding obligation of the Sponsor enforceable in accordance with its terms and conditions. The undersigned officer of the Sponsor is the lawful agent of the Sponsor with the authority to execute and deliver this Agreement.

19.4. Purpose. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Grants shall be used by the Sponsor solely for purposes of the Qualifying Site Preparation Costs and the Infrastructure Costs. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes.

19.5. Non-contravention. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement shall: (a) violate any applicable law including the Amendment 82 Requirements; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create the right to accelerate, terminate, modify, cancel, or require any notice pursuant to the Capital Commitment Documents and any other material contract or lease to which the Sponsor may be a party or by which the Sponsor may be bound or to which the Incentive Loan Collateral may be subject; or (c) violate or conflict with the articles of organization, the operating agreement, and other governing documents of the Sponsor.

20. General Covenants. In addition to the covenants of the Sponsor set forth elsewhere in this Agreement, the Sponsor covenants and agrees as follows:

20.1. Change of Name. The Sponsor shall not change its legal name unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its name.

20.2. State of Organization. The Sponsor shall not change the jurisdiction of the organization of the Sponsor unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its jurisdiction.

20.3. Eligible Business. The Sponsor shall qualify as an "eligible business" as defined in the Consolidated Incentive Act prior to the receipt of the Amendment 82 Financing.

20.4. Environmental. The Sponsor shall cause the Project to comply with the relevant environmental standards of applicable law. It is also intended that representations shall be made by the Project's primary technology provider that its technology meets the relevant environmental standards of the World Bank Group.

20.5. Employment Laws. The Sponsor agrees to comply with all relevant and applicable employment laws.

21. General Provisions.

21.1. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State without regard to principles of conflicts of laws that would require or permit the applica-

tion of the laws of a state other than the State.

21.2. Interpretation. This Agreement shall be interpreted as follows: (a) as though the Parties shared equally in the negotiation and preparation of this Agreement; (b) gender or lack of gender of any word shall include the masculine, feminine, and neuter; (c) singular shall include plural and plural shall include singular; (d) the words “include” and “including” mean, in addition to any regularly accepted meaning, “without limitation” and “including but not limited to”; (e) references to Sections refer to Sections of this Agreement; (f) subject headings, captions, and titles shall not affect the interpretation of this Agreement; (g) as a solicitation for offers until this Agreement shall have been executed and delivered by all Parties; (h) the definition of any term in this Agreement shall apply to all uses of such term whenever capitalized; and (i) any Exhibits to this Agreement shall be incorporated into this Agreement as though fully set forth word for word in this Agreement.

21.3. Business Day. If any provision of this Agreement shall require the performance of an obligation or the exercise of a right on a date that shall be a legal holiday pursuant to applicable law, a Party may postpone the performance of such obligation or the exercise of such right until the next business day pursuant to applicable law.

21.4. Currency. Any reference to dollars or money in this Agreement shall mean legal tender of the United States of America. Any amount required to be paid by a Party pursuant to this Agreement shall be paid by check or electronic transfer payable to the order of the Party to receive such amount.

21.5. Time for Performance. Time shall be of the essence.

21.6. Brokers. The State shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the Sponsor. The Sponsor shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the State.

21.7. Expenses. Except as provided in this Agreement, each Party shall pay all expenses incurred by such Party with respect to: (a) the negotiation, preparation, execution, delivery, and performance of this Agreement; and (b) the transactions contemplated by this Agreement.

21.8. Force Majeure. A Party shall bear no responsibility or liability for non-performance of obligations under this Agreement caused by, and during the duration of, major events beyond its reasonable control, such as an act of God, emergency, fire, casualty, lockout or strike, unavoidable accident, riot, war, terrorism, financial market disruption, computer virus or similar threat, or other force majeure. A Party affected by such a major event shall send written notice to all Parties of the nature and extent of the major event within sixty (60) days after the occurrence of the major event and again within sixty (60) days following the conclusion of the major event.

21.9. Notice. All notices, demands, requests, and other communications required by this Agreement shall be in writing and shall be delivered to a Party by either: (a) personal delivery; (b) overnight

delivery service with delivery costs and expenses prepaid and receipt of delivery requested; (c) certified or registered mail with postage prepaid and return receipt requested; or (d) by electronic mail to the persons then holding the titles below. All notices, demands, requests, and other communications permitted or required by this Agreement shall be delivered to the Parties at the following addresses unless another address shall be designated by a Party by notice pursuant to the provisions of this Section:

If to the State: Office of the Governor
State Capitol Room 250
Little Rock, Arkansas 72201

AND

Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72101

AND

Arkansas Department of Finance and
Administration
Office of the Director
1509 West Seventh Street, Suite 401
Little Rock, Arkansas 72203-3278

AND

Arkansas Economic Development Commission
Attn: Executive Director
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the
Commission: Arkansas Economic Development Commission
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Economic Development Commission
Attn: Bryan Scoggins
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101
bscoggins@ArkansasEDC.com

If to the Authority: Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the Sponsor: Big River Steel, LLC
Attn: Mr. John Correnti
Chairman and Chief Executive Officer
1425 Ohlendorf Road
Osceola, Arkansas 72370

21.10. Amendment. This Agreement may be modified or amended only by a subsequent written agreement executed and delivered by all Parties in accordance with the requirements of the Act. The course of dealing and the course of performance among the Parties shall not modify or amend this Agreement in any respect.

21.11. Waiver. The provisions of this Agreement may be waived only by a subsequent written agreement executed and delivered by all Parties. Any delay or inaction by a Party shall not be construed as a waiver of any of the provisions of this Agreement. A waiver of any provision of this Agreement: (a) shall not be construed as a waiver of any other provision of this Agreement; (b) shall be applicable only to the specific instance and for the specific period in which the waiver may be given; (c) shall not be construed as a permanent waiver of any provision of this Agreement unless otherwise agreed by all Parties in a subsequent written agreement executed and delivered by all Parties; (d) shall not affect any right or remedy available to a Party; and (e) shall be subject to such terms and conditions as provided in a subsequent written agreement executed and delivered by all Parties.

21.12. Binding Effect. The Parties executed and delivered this Agreement with the intent to be legally bound to its provisions. This Agreement shall inure to the benefit of, shall be binding on, and shall be enforceable by the heirs, successors, and assigns of the Parties.

21.13. Third Party Beneficiary. The Parties do not intend to create any rights pursuant to this Agreement for the benefit of any third party beneficiary except as expressly provided in this Agreement.

21.14. Severability. Each provision of this Agreement shall be severable from all other provisions of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the

validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be determined to be invalid or unenforceable by a Governmental Authority in any litigation among the Parties, such provision shall be amended, without further action by the Parties, to the extent necessary to cause such provision to be valid and enforceable.

21.15. Remedies. The remedies provided in this Agreement and the Act shall be cumulative and not exclusive of any remedies otherwise available to the Parties pursuant to applicable law.

21.16. Conflicts. If there shall be an irreconcilable conflict between the provisions of this Agreement and the provisions of any other document with respect to the transactions contemplated by this Agreement including the Formal Proposal and the Letter of Commitment, the provisions of this Agreement shall prevail and the conflict shall be resolved by reference only to the provisions of this Agreement. To the extent there may be an irreconcilable conflict between the Amendment 82 Requirements and the provisions of this Agreement, the Amendment 82 Requirements shall prevail. To the extent there may be an irreconcilable conflict between the requirements of the Consolidated Incentive Act and the provisions of this Agreement, the requirements of the Consolidated Incentive Act shall prevail.

21.17. Entire Agreement. This Agreement contains the entire agreement of the Parties on the subject matters of this Agreement, and any oral or prior written understanding on the subject matters of this Agreement shall not be binding on the Parties. Each Party represents, warrants, and covenants that such Party has not been influenced to enter into this Agreement by any Person and has not relied on any representation, warranty, or covenant of any Person other than as set forth in this Agreement.

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EXECUTED and DELIVERED as of March ____, 2013.

THE STATE
THE STATE OF ARKANSAS

By: Governor, Mike Beebe

By: President Pro Tempore of the Senate,
Michael Lamoureux

By: Speaker of the House of Representatives,
Davy Carter

By: Chief Fiscal Officer and Director of the
Department of Finance and Administration,
Richard Weiss

By: Director of the Arkansas Economic
Development Commission,
Grant Tennille

By: President of the Arkansas Development
Finance Authority, Mac Dodson

THE SPONSOR
BIG RIVER STEEL, LLC

By: Chairman and Chief Executive Officer,
John Correnti

EXHIBIT 1
DEVELOPMENT PLAN

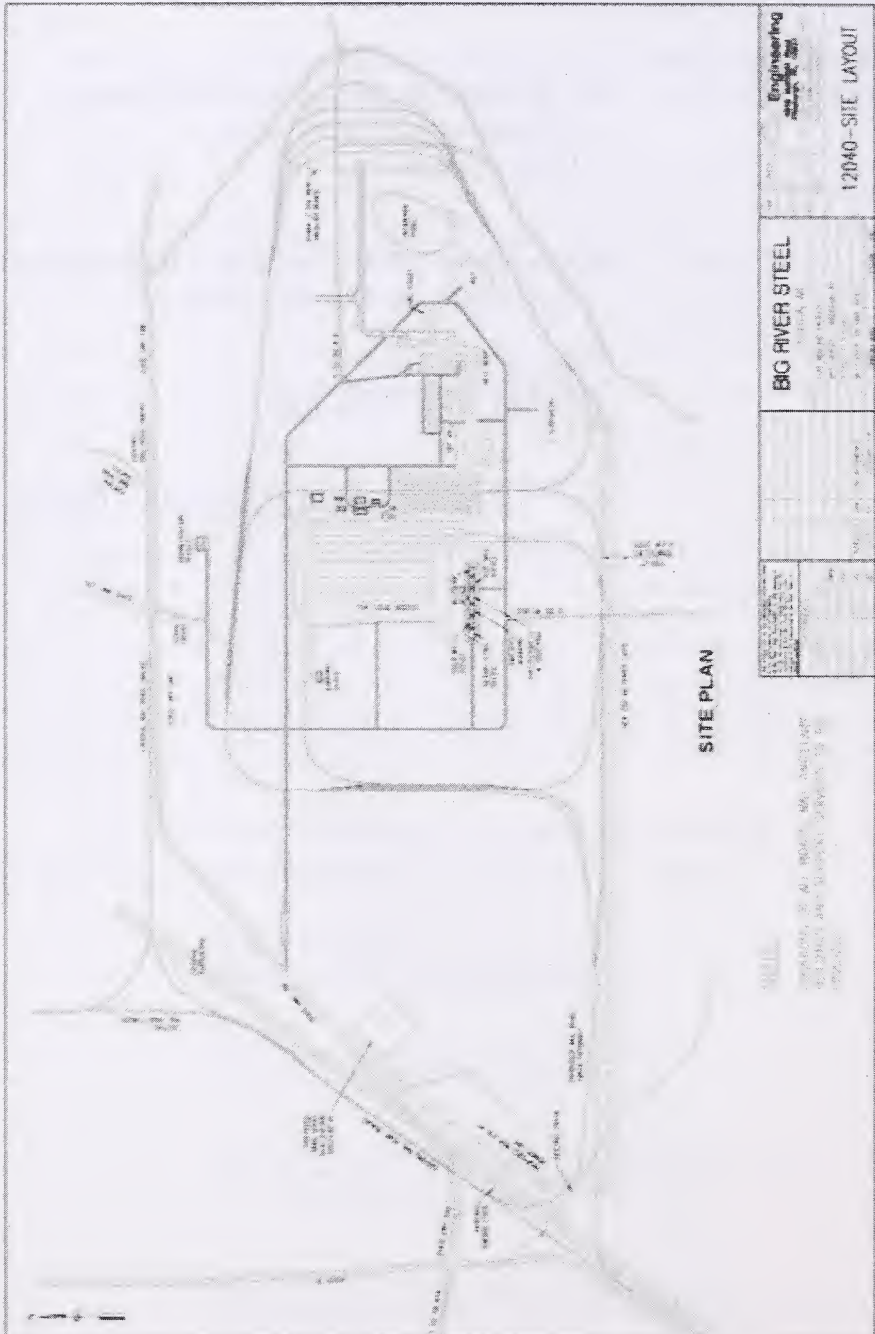


EXHIBIT 2
INCENTIVE LOAN COLLATERAL

Hot Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting	
001	Meltshop
002	Tunnel Furnace Building
003	Hot Mill / Roll Shop Building
Total	\$44,100,000

Cold Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting	
Total	\$30,000,000

Total Collateral Value for Incentive Loan = \$74,100,000

EXHIBIT 3
PROJECT SITE

ALL OF SECTION 19, SOUTH OF HWY 198, containing in the aggregate 485 acres, more or less. THIS PORTION OF SECTION 19 IS LESS AND EXCEPT THE W½ OF THE W½ being 155 acres, more or less.

THE S½ and the E½ of the NE¼ OF SECTION 20, containing 383 acres, more or less.

ALL OF SECTION 21, containing 452 acres, more or less. LESS AND EXCEPT LEVEE AND RIVER EROSION, containing 150 acres, more or less.

THE NW¼ OF SECTION 22, LESS AND EXCEPT RIVER EROSION, containing 67 acres, more or less.

THE NE¼ NE¼ OF SECTION 29 WEST OF LEVEE containing 29 acres, more or less; and THE N½ OF SECTION 29 EAST OF LEVEE containing 166 acres, more or less.

THE N½ OF SECTION 30, containing in the aggregate 210 acres, more or less. THIS PORTION OF SECTION 30 IS LESS AND EXCEPT THE W½ OF THE NW¼ containing 80 acres, more or less; AND ALSO LESS AND EXCEPT A PARCEL IN THE SE ¼ SE ¼ being 47 acres, more or less.

ALL OF THE ABOVE SECTIONS ARE IN TOWNSHIP 12 NORTH,

RANGE 11 EAST of the Osceola District of Mississippi County, Arkansas.

Containing in the aggregate 1792 acres, more or less.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that unemployment levels within this state are unacceptably high; that additional incentives are needed to encourage the location and expansion of manufacturing facilities within this state and to provide additional job opportunities for our citizens; that this act is designed to provide the incentives needed to encourage certain manufacturers to locate their facilities within this state thereby creating additional job opportunities for our citizens; that the development and completion of a mini-mill steel manufacturing facility by Big River Steel, LLC is important to the economic health of the state and its citizens; and that this act is immediately necessary because any delay in the effective date of this act will delay completion of the mini-mill steel manufacturing facility by Big River Steel, LLC and the creation of new jobs in the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

18. THE STEEL MILL PROJECT — ACTS 2013, No. 1476, §§ 1-8.

SECTION 1. Legislative findings and intent.

(a) The General Assembly finds that the:

- (1) Creation of jobs and economic growth are critical to improving the lives of the citizens of the State of Arkansas; and
- (2) Arkansas Economic Development Commission has submitted for approval of the General Assembly a proposal to issue general obligation bonds of the state to provide financing for a large economic development project.

(b) The General Assembly further finds that:

- (1) The proposed project between the State of Arkansas and Big River Steel, LLC is a qualified project under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and Big River Steel, LLC qualifies as an eligible business under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.;
- (2) The proposed uses of the bond proceeds described in the Amendment 82 Agreement qualify as financing for infrastructure or other needs within the meaning of Arkansas Constitution, Amend-

ment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.; and

(3) Arkansas Constitution, Amendment 82, authorizes the General Assembly to issue bonds bearing the full faith and credit of the State of Arkansas if the prospective employer planning an economic development project is eligible under the criteria established by law.

(c) This act is intended to authorize:

(1) The issuance of bonds under the authority granted to the General Assembly under Arkansas Constitution, Amendment 82; and

(2) Under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the execution and implementation of the Amendment 82 Agreement and other provisions necessary to carry out the Amendment 82 Agreement.

(d) As provided under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., this act includes the:

(1) Authorization for the issuance of bonds bearing the full faith and credit of the State of Arkansas as authorized under Arkansas Constitution, Amendment 82;

(2) Authorization of the agreement between the State of Arkansas and the Big River Steel, LLC;

(3) Creation of a sales tax exemption for natural gas and electricity for Big River Steel, LLC; and

(4) Extension of the waste reduction, reuse, or recycling equipment tax credit.

SECTION 2. Big River Steel Project bonds issued under Arkansas Constitution, Amendment 82.

(a) As used in this section:

(1) “Amendment 82 Agreement” means the unexecuted document titled “Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC” submitted to the General Assembly and as found in Section 8 of this act; and

(2) “Project” means the acquisition, development, construction, and operation of a mini-mill steel manufacturing facility by Big River Steel, LLC, on a site in Mississippi County, Arkansas, that is identified more specifically in the Amendment 82 Agreement.

(b)(1) The General Assembly finds that the project qualifies as a large economic development project for which the issuance of general obligation bonds is authorized under Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and is of the nature intended by the electors of the state to be financed with bonds under Arkansas Constitution, Amendment 82.

(2) The General Assembly approves the terms of the Amendment 82 Agreement between the State of Arkansas and Big River Steel, LLC, and authorizes the execution of the Amendment 82 Agreement in substantially the same form as presented to the General Assembly but with such changes as shall be approved by the officers executing the Amendment 82 Agreement on behalf of the state.

(c)(1) The General Assembly authorizes the Arkansas Development Finance Authority to issue general obligation bonds of the State of Arkansas in an amount not to exceed one hundred twenty-five million dollars (\$125,000,000) in the aggregate.

(2) The bonds authorized under subdivision (c)(1) of this section:

(A) Are direct general obligations of the State of Arkansas;

(B) Bear the full faith and credit of the State of Arkansas; and

(C) Are payable from gross general revenues or special revenues appropriated by the General Assembly.

(d) The authority shall issue the bonds in accordance with the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(e)(1) The Arkansas Economic Development Commission and the authority may implement the Amendment 82 Agreement consistent with this act, Arkansas Constitution, Amendment 82, and the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq.

(2) If a provision of this act or of the Amendment 82 Agreement conflicts with any provision of the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., the provisions of this act and the provisions of the Amendment 82 Agreement control.

SECTION 3. Sections 4 through 7 of this act shall be known and may be cited as the "Amendment 82 Big River Steel Project Tax Provisions".

SECTION 4. Definitions.

As used in sections 4 through 7 of this act:

(1) "Invested" includes, but is not limited to, expenditures made from the proceeds of bonds, including interim notes or other evidence of indebtedness, issued by a municipality, county, or an agency or instrumentality of a municipality, county, or the State of Arkansas, if the obligation to repay the bonds, including interest thereon, is a legally binding obligation, directly or indirectly, of the taxpayer;

(2) "Production, processing, and testing equipment" includes machinery and equipment essential for the receiving, storing, processing, and testing of raw materials and the production, storage, testing, and shipping of finished products, and facilities for the production of steam, electricity, chemicals, and other materials that are essential to the manufacturing process but which are consumed in the manufacturing process and do not become essential components of the finished product; and

(3) "Qualified manufacturer of steel" means any natural person, company, or corporation, and any holding company of any of the foregoing, engaged in the manufacture, refinement, or processing of steel whenever more than fifty percent (50%) of the electricity or more than fifty percent (50%) of the natural gas consumed in the manufacture, refinement, or processing of steel is used to power an electric arc furnace or furnaces or continuous casting equipment in connection with the melting, continuous casting, or rolling of steel or in the preheating of steel for processing through a rolling mill or rolling mills, or both.

SECTION 5. Certification required.

(a) To claim the benefits of this act, a taxpayer must obtain a

certification prior to March 31, 2016, from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer:

(1) Is a qualified manufacturer of steel;

(2) Operates a steel mill in Arkansas which began production after January 1, 2013; and

(3) Has invested after January 1, 2013, and prior to December 31, 2015, more than five hundred million dollars (\$500,000,000) in the steel mill, and the investment expenditure is for one (1) or more of the following:

(A) Property purchased for use in the construction of a building or buildings or any addition or improvement thereon to house the steel mill;

(B)(i) Machinery and equipment to be located in or in connection with the steel mill.

(ii) Motor vehicles of a type subject to registration shall not be considered as machinery and equipment; and

(C) Project planning costs or construction labor costs, including:

(i) On-site direct labor and supervision, whether employed by a contractor or the project owner;

(ii) Architectural fees or engineering fees, or both;

(iii) Right-of-way purchases;

(iv) Utility extensions;

(v) Site preparation;

(vi) Parking lots;

(vii) Disposal or containment systems;

(viii) Water and sewer treatment systems;

(ix) Rail spurs;

(x) Streets and roads;

(xi) Purchase of mineral rights;

(xii) Land;

(xiii) Buildings;

(xiv) Building renovation;

(xv) Production, processing, and testing equipment;

(xvi) Drainage systems;

(xvii) Water tanks and reservoirs;

(xviii) Storage facilities;

(xix) Equipment rental;

(xx) Contractor's cost-plus fees;

(xxi) Builders' risk insurance;

(xxii) Original spare parts;

(xxiii) Job administrative expenses;

(xxiv) Office furnishings and equipment;

(xxv) Rolling stock; and

(xxvi) Capitalized start-up costs related to the construction as recognized by generally accepted accounting principles.

(b) To continue to claim the benefits provided under Section 7 of this act after December 31, 2018, a taxpayer shall:

(1) Obtain an annual certification from the Director of the Arkansas Economic Development Commission certifying to the Revenue Division of the Department of Finance and Administration that the taxpayer meets the requirements of subsection (a) of this section; and

(2) Employ at least three hundred (300) individuals in the management, operations, and maintenance of the steel mill at an average wage equal to or in excess of seventy thousand dollars (\$70,000) in cash compensation per calendar year.

SECTION 6. Exemption from taxes.

Beginning on the date that production, processing, and testing equipment are first in operation, sales of natural gas and electricity to a qualified manufacturer of steel that is certified under Section 5 of this act shall be exempt from the gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, Arkansas Code § 26-52-101, et seq., the Arkansas Compensating Tax Act of 1949, Arkansas Code § 26-53-101 et seq., and any other state or local tax administered under those acts.

SECTION 7. Recycling tax credits.

(a)(1)(A) A qualified manufacturer of steel that has been certified under Section 5 of this act after January 1, 2013, and prior to December 31, 2020, and that has qualified for the income tax credit for the purchase of waste reduction, reuse, or recycling equipment provided by Arkansas Code § 26-51-506, may carry forward any unused income tax credit earned under § 26-51-506 for a period of fourteen (14) consecutive years following the taxable year in which the credit originated.

(B) However, if a qualified manufacturer of steel is not certified under Section 5(b) of this act, the carry-forward period allowed under subdivision (a)(1)(A) of this section shall be reduced by one (1) year for each year that the qualified manufacturer of steel does not obtain certification under Section 5(b) of this act.

(2) Income tax credits that would otherwise expire during that period shall be claimed first.

(b)(1) As used in subdivision (a)(1) of this section, the term “waste reduction, reuse, or recycling equipment” as defined in § 26-51-506 shall include production, processing, and testing equipment used to manufacture products containing recovered materials.

(2) The provisions of § 26-51-506(d)(4) shall not apply.

(3) However, the qualified manufacturer of steel shall make a good faith effort to use recovered materials containing Arkansas post-consumer waste as a part of the materials used.

(c)(1) Except as provided in subdivision (c)(2) of this section, the refund provisions of Arkansas Code § 26-51-506(f) shall not apply to a qualified manufacturer of steel that has been certified under Section 5 of this act.

(2) The qualified manufacturer of steel shall refund the amount required under subdivision (c)(3) of this section if within three (3) years of the taxable year in which the credit originated:

(A)(i) The waste reduction, reuse, or recycling equipment is removed from Arkansas, disposed of, or transferred to another person,

or the qualified manufacturer of steel otherwise ceases to use the required materials or operate in accordance with § 26-51-506 or this section.

(ii) Reorganization transactions, changes of ownership and control, and sales and transfers of waste reduction, reuse, or recycling equipment among affiliates which do not constitute sales or transfers to a third-party purchaser shall not be considered disposals, transfers, or cessations of use for purposes of § 26-51-506 or this section; or

(B) The Director of the Arkansas Department of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

(3) If the provisions of subdivision (c)(2) of this section apply, the qualified manufacturer of steel shall refund the amount of the allowed tax credit claimed by the qualified manufacturer of steel which exceeds the following amounts:

(A) Within the first taxable year, zero dollars (\$0.00);

(B) Within the second taxable year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(C) Within the third taxable year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(4) Any refund required by subdivision (c)(2)(A) of this section shall apply only to the credit given for the particular waste reduction, reuse, or recycling equipment to which that subdivision applies.

(5) A qualified manufacturer of steel that is required to refund part of a credit pursuant to this section shall no longer be eligible to carry forward any amount of that credit which had not been used as of the date the refund is required.

(6) A qualified manufacturer of steel aggrieved by a decision of the Director of the Arkansas Department of Environmental Quality under this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the commission and to the courts in the manner provided in Arkansas Code §§ 8-4-222 — 8-4-229.

(d) In the case of a qualified manufacturer of steel that is:

(1) A proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes, the amount of the credit determined under this section for any taxable year shall be apportioned to each proprietor, partner, member, or other owner in proportion to the amount of income from the entity which the proprietor, partner, member, or other owner is required to include in gross income or as otherwise provided for in the applicable ownership or operating agreements if at least one of the proprietor, partner, member or other owner of the organization is a public retirement system of the State of Arkansas;

(2) A Subchapter S corporation, the amount of credit determined shall be apportioned to each Subchapter S corporation shareholder in proportion to the amount of income from the entity which the Subchapter S corporation shareholder is required to include as gross income or as otherwise provided for in the applicable articles of incorporation or bylaws if at least one of the shareholders is a public retirement system of the State of Arkansas; or

(3) An estate or trust:

(A) The amount of the credit determined for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and

(B) Any beneficiary to whom any amount has been apportioned under this section shall be allowed, subject to the limitations contained in this section, a credit under this section for that amount.

SECTION 8. Amendment 82 Agreement Between The State Of Arkansas And Big River Steel, LLC.

AMENDMENT 82 AGREEMENT

Between

THE STATE OF ARKANSAS

And

BIG RIVER STEEL, LLC

Dated as of

MARCH ____, 2013

AMENDMENT 82 AGREEMENT

THIS AMENDMENT 82 AGREEMENT ("Agreement") is made and entered into by and between the State of Arkansas (the "State"); and Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware (the "Sponsor").

W-I-T-N-E-S-S-E-T-H

For valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **Definitions.** For purposes of this Agreement, the following terms and variations thereof (including the singular, plural, and possessive and the past, present, and future tense) shall have the following meanings:

"Act" shall mean and refer to the Arkansas Amendment 82 Implementation Act, A.C.A. § 15-4-3201 et seq., as amended through 2012.

"Actual Project Capital Expenditures" shall mean and refer to the total of: (a) the Qualifying Site Preparation Costs, including Piling Costs, and the Infrastructure Costs actually invested by, or on behalf of, the Sponsor at the Project Site; and (b) any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site.

"Advantage Arkansas Agreement" shall mean and refer to a Financial Incentive Agreement with the State for job creation tax credits as

required pursuant to A.C.A. § 15-4-2705.

“Advantage Arkansas Program” shall mean and refer to the job creation tax credit program established by the Consolidated Incentive Act.

“Agreement” shall mean and refer to this Amendment 82 Agreement.

“Amendment 82” shall mean and refer to Amendment 82 to the Constitution of the State of Arkansas of 1874.

“Amendment 82 Financing” shall mean and refer to the funds to be provided by the State to, or for the benefit of, the Sponsor pursuant to the Grants and the Incentive Loan and the funds allocated to the reasonable and necessary closing costs and expenses of the State.

“Amendment 82 Requirements” shall mean and refer to the provisions of Amendment 82 and the Act, and other requirements imposed by legislation approving this Agreement.

“Announced Controlling Party” shall mean and refer to the Person who shall be proposed to be the successor to the Sponsor with respect to the Project following a Change of Control Event.

“Authority” shall mean and refer to the Arkansas Development Finance Authority or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Authority pursuant to this Agreement.

“Bonds” shall mean and refer to the general obligation bonds issued by the State pursuant to the Amendment 82 Requirements in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) for the Amendment 82 Financing.

“Capital Commitments” shall mean and refer to: (a) the written commitments obtained by the Sponsor for private equity investments; (b) various other forms of capital including term loans and working capital financing; (c) written commitments obtained by the Sponsor for infrastructure; (c) incentives from the State including the Amendment 82 Financing and the incentives described in Section 8, but not those incentives described in Sections 9 and 10; (d) other incentives including amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas with respect to the acquisition and lease of the Project Site; and (e) other forms of financing, exclusive of the Amendment 82 Financing.

“Capital Commitment Documents” shall mean and refer to any documents evidencing the Capital Commitments and any such other documents, records, and other information as are reasonably necessary to describe the nature, terms and conditions, and amount or value of the Capital Commitments.

“Change of Control Event” shall have the meaning set forth in the Inter-Creditor Agreement that, when taken as a whole, is no less favorable to the State than a definition which includes the following events: (a) the sale or disposition of all or substantially all of the assets of the Project to a Non-related Entity; and (b) all such other events as may be defined in the Inter-Creditor Agreement.

“Chief Fiscal Officer” shall have the meaning set forth in the Act.

“Closing Date” shall mean and refer to the date of the issuance of the Bonds.

“Commission” shall mean and refer to the Arkansas Economic Development Commission or any other agency of the State which succeeds by statutory enactment to the rights and obligations assigned to the Commission pursuant to this Agreement.

“Compensation Target” shall mean and refer to an average annual compensation with respect to the Direct Positions and Independent Direct Positions designated by the Sponsor of Seventy-five Thousand Dollars (\$75,000.00) per year, excluding any non-cash benefits.

“Confidential Business Information” shall have the meaning set forth in Section 15.

“Consolidated Incentive Act” shall mean and refer to the Consolidated Incentive Act of 2003, A.C.A. § 15-4-2701 et seq., as amended.

“Department” shall mean and refer to the Arkansas Department of Finance and Administration.

“Development Plan” shall mean and refer to the plans attached to Exhibit 1.

“Direct Positions” shall mean and refer to those employees: (a) who shall be designated by the Sponsor; (b) who shall hold Full Time Positions; and (c) who shall work directly for the Sponsor or a Related Entity at the Facility or on the Project Site.

“Employment Target” shall mean and refer to at least five hundred twenty-five (525) New Full Time Positions through either Direct Positions or Independent Direct Positions at the Facility or on the Project Site.

“Escrow Account” shall mean and refer to any interest earning escrow account administered by the Escrow Agent pursuant to an Escrow Agreement.

“Escrow Agent” shall mean and refer to any Person appointed by the State as an escrow agent with respect to funds or items to be held or disbursed by the State pursuant to the terms and conditions of this Agreement.

“Escrow Agreement” shall mean and refer to any escrow agreement with any Escrow Agent.

“Exhibit” shall mean and refer to an exhibit specifically referred to in this Agreement that shall be either attached to this Agreement or delivered by a Party in conjunction with the execution and delivery of this Agreement.

“Facility” shall mean and refer to the Mini Mill steel manufacturing facility and all related buildings and infrastructure to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“Financial Incentive Agreement” shall mean and refer to the financial incentive agreements described in the Consolidated Incentive Act.

“Full Time Position” shall mean, when referring to a position or job, a position or job filled for at least nine (9) months during a calendar year with an average of at least thirty (30) hours of work each week.

“General Assembly” shall mean and refer to the Senate and the House of Representatives of the State.

“Governmental Authority” shall mean and refer to any executive, legislative, or judicial branch, or any agency, department, board, commission, council, court, tribunal, official, task force, or other authority exercising governmental powers of the United States of America or the State.

“Governor” shall mean and refer to the Governor of the State.

“Grants” shall mean and refer collectively to the cash grant for Qualifying Site Preparation Costs as described in Section 6.2 and the cash grant for Piling Costs as described in Section 6.3.

“Incentive Loan” shall mean and refer to the loan of money as described in Section 6.4.

“Incentive Loan Collateral” shall mean and refer to that part of the Infrastructure described in Exhibit 2 and all accessions, substitutions, and replacements thereto or thereof, whether now owned or hereafter acquired and all proceeds thereof whether of the same or different class.

“Incentive Loan Documents” shall mean and refer to the promissory note, security agreement, mortgage, financing statement, fixture statement, and other documents entered into between the Authority and the Sponsor with respect to the Incentive Loan.

“Independent Direct Positions” shall mean and refer to those employees and independent contractors of Non-related Entities who shall be designated by the Sponsor and who hold Full Time Positions at the Facility or on the Project Site with the primary objective of providing any of the following products and services necessary to the operation, maintenance, or repair of any part of the Project: (1) slag handling operations; (2) oxygen and hydrogen production operations; (3) roll shop operations; (4) maintenance shop operations; (5) scrap handling and processing operations; (6) material management operations; (7) logistic operations; (8) site maintenance; or (9) any other support services at the Facility or on the Project Site as approved by the Commission.

“Infrastructure” shall mean and refer to the buildings, fixtures, machinery, and equipment acquired, developed, constructed, and operated at the Project Site and includes the Facility.

“Infrastructure Costs” shall mean and refer to the costs and expenses paid or incurred by, on behalf of, the Sponsor with respect to the acquisition, development, construction of the Infrastructure at the Project Site, but shall not include any amounts paid by or received from the City of Osceola, Arkansas or Mississippi County, Arkansas.

“Inter-Creditor Agreement” shall mean and refer to the inter-creditor agreement among the Authority and all Senior Term Lenders to the Project and all other Persons who may claim any interest in the Incentive Loan Collateral and certain other Persons.

“Investment Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to make a minimum capital investment of One Billion Twenty-three Million Five Hundred Ninety Thousand Dollars (\$1,023,590,000.00) in Actual Project Capital

Expenditures.

“Investment Threshold” shall mean and refer to the investment by the Sponsor of a minimum of Two Hundred Fifty Million Dollars (\$250,000,000.00) in Actual Project Capital Expenditures for the use and benefit of the Project at the Project Site.

“Joint Marketing Agreement” shall mean and refer to the joint marketing agreement to be entered into between the Commission and the Sponsor prior to the Closing Date.

“Letter of Commitment” shall mean and refer to the letter of commitment entered into pursuant to the Amendment 82 Requirements between the Commission and the Sponsor as of January 28, 2013.

“Mini Mill” shall mean and refer to the steel manufacturing facility to be acquired, developed, constructed, and operated at the Project Site as generally described in the Development Plan.

“New Full Time Position” shall mean and refer to a permanent Full Time Position at the Facility or the Project Site that was created after the date of this Agreement.

“Non-related Entity” shall mean and refer to any Person that shall not meet the definition of a Related Entity.

“Office of Economic and Tax Policy” shall mean and refer to the Office of Economic and Tax Policy of the Arkansas Bureau of Legislative Research.

“Party” shall mean and refer to either or both of the State and the Sponsor.

“Person” shall mean and refer to any Party, individual, entity, corporation, company, association, limited liability company, joint venture, general partnership, limited partnership, organization, Governmental Authority, revocable trust, irrevocable trust, estate, personal representative, executor, trustee, receiver, liquidator, or other person.

“Piling Costs” shall mean and refer to those Qualifying Site Preparation Costs directly related to that part of the Facility on which the Mini Mill shall be situated and that shall be necessary for subsurface stabilization of the Mini Mill. “Piling Costs” include costs and expenses related to piling, subsurface stabilization, engineering, grading, footers, dewatering, excavation and foundation preparation, all installation, material and labor costs and expenses directly related to the foregoing, and all other necessary subsurface stabilization costs and expenses incidental to the Piling Costs.

“Position Creation Requirement” shall mean and refer to the obligation of the Sponsor, as described in this Agreement, to achieve and maintain the Employment Target and the Compensation Target.

“Preliminary Period” shall mean and refer to a term of thirty-six (36) months commencing on the Closing Date and continuing until the third anniversary thereof.

“Project” shall mean and refer to the acquisition, development, construction, and operation of the Facility at the Project Site in a manner that shall satisfy the Investment Requirement and that shall

achieve and maintain the Position Creation Requirement.

“Project Site” shall mean and refer to the location of the Project in Mississippi County, Arkansas as described in Exhibit 3.

“Qualified Amendment 82 Project” shall have the meaning set forth in the Act.

“Qualifying Site Preparation Costs” shall mean and refer to the following costs and expenses of the Project at the Project Site: removal of trees, removal of structures, site clearing activities, grubbing, grading, environmental remediation costs, excavation and other earthwork, fill dirt, compaction, erosion control, installation of drainage and storm water detention, fencing, installation of temporary and permanent internal roads, footers and building foundations, on-site rail installation, on-site public infrastructure improvements or construction, engineering costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and that shall be approved by the State.

“Recycling Credit Legislation” shall mean and refer to an act to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) in connection with a facility located in the State of Arkansas and that create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

“Recycling Equipment Tax Credit Program” shall mean and refer to the program with such name established under A.C.A. § 26-51-506.

“Related Entity” shall have the meaning set forth in A.C.A. § 15-4-3202 (24) (2011 Revision).

“Repayment Calculations” shall mean and refer to the formulae set forth in Section 11 and Section 14 to be used if the Sponsor shall fail to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement as set forth in this Agreement.

“Repayment Penalties” shall mean and refer to the penalties payable by the Sponsor as determined by the Repayment Calculations.

“Request for Disbursement” shall mean and refer to a request by the Sponsor with respect to a disbursement of the Grants or the Incentive Loan in the form to be reasonably approved by the State and the Sponsor.

“Senior Term Lenders” shall mean and refer to those senior secured term lenders to the Project who shall be required to join as a party to the Inter-Creditor Agreement, as reasonably determined by the Authority and the Sponsor.

“Sponsor” shall mean and refer to Big River Steel, LLC, a limited liability company organized pursuant to the laws of the State of Delaware.

“State” shall mean and refer to the State of Arkansas.

“Tax Back Program” shall mean and refer to the investment tax incentives program established by the Consolidated Incentive Act at

A.C.A. § 15-4-2706.

“Termination Date” shall mean and refer to June 30, 2014.

“Test Date” shall mean and refer to the date on which the Preliminary Period shall expire and the anniversary of such date during each year of the Testing Period.

“Testing Period” shall mean and refer to a term of fifteen (15) years commencing upon the expiration of the Preliminary Period and continuing until the eighteenth (18th) anniversary of the Closing Date.

“Training Agreement” shall mean and refer to the training agreement to be entered into between the Commission and the Sponsor with respect to the assistance to be provided by the Commission to the Sponsor in the recruitment and training of employees and independent contractors.

“Utility Tax Legislation” shall mean and refer to an act to provide a full exemption of state sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

2. Project. Subject to the terms and conditions of this Agreement, the Sponsor shall: (a) acquire, develop, construct, and operate the Facility at the Project Site; (b) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (c) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (d) maintain the Position Creation Requirement during the Test Period. The Facility shall be acquired, developed, and constructed as generally described in the Development Plan.

3. Investment Requirement.

3.1. Capital Commitments. The Project shall require a minimum capital investment at the Project Site in Actual Project Capital Expenditures of at least the Investment Requirement. The Sponsor shall satisfy the Investment Requirement by no later than the expiration of the Preliminary Period. Prior to the Termination Date, the Sponsor shall raise Capital Commitments in the form of private equity investments of a minimum of Three Hundred Million Dollars (\$300,000,000.00), and the Sponsor shall obtain other Capital Commitments.

3.2. Escrow of Capital Commitments. When the Sponsor shall have raised such minimum of Capital Commitments in the form of private equity investments and shall have obtained such other Capital Commitments to satisfy the Investment Requirement as described in Section 3.1, the Sponsor shall: (a) deposit into escrow with the Escrow Agent cash or irrevocable letters of credit with a total value of at least Three Hundred Million Dollars (\$300,000,000.00); (b) provide a written summary to the Commission and the Authority of the other Capital Commitments as shall be necessary to satisfy the Investment Requirement; and (c) provide a copy of all of the Capital Commitment

Documents to the Commission and the Authority. The Sponsor shall reasonably cooperate with the Commission and the Authority with respect to any review of the Capital Commitment Documents. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall not provide the Sponsor with sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall provide written notice thereof to the Sponsor within five (5) business days from the receipt of the Capital Commitment Documents, and the Sponsor shall have until the Termination Date to raise Capital Commitments in the form of private equity investments and to obtain other Capital Commitments to satisfy the Investment Requirement. If the Commission and the Authority shall reasonably determine that the Capital Commitments and the proceeds of the Bonds shall provide the Sponsor with the sufficient financial capability to satisfy the Investment Requirement by the expiration of the Preliminary Period, the Commission and the Authority shall send written notice thereof to the Sponsor and the Closing Date and the issuance of the Bonds shall be scheduled for a date within fifteen (15) calendar days after receipt of all the Capital Commitment Documents by the Commission and the Authority.

3.3. Local Investment. Prior to the expiration of the Preliminary Period, the Sponsor shall use its reasonable efforts to spend Two Hundred Fifty Million Dollars (\$250,000,000.00) for products and services from vendors and suppliers based in the State.

4. Position Creation Requirement. Prior to the expiration of the Preliminary Period, the Sponsor shall achieve the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. During the Testing Period, the Sponsor shall maintain the Employment Target and the Compensation Target through either Direct Positions or Independent Direct Positions. The New Full Time Positions required by the Position Creation Requirement shall include those Direct Positions and Independent Direct Positions designated by the Sponsor. The Employment Target and the Compensation Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which constitute Full Time Positions during the calendar year in question.

5. Time Periods.

5.1. Closing Date. The Parties anticipate that the Closing Date shall occur prior to December 31, 2013, but the Closing Date may occur on any date prior to the Termination Date.

5.2. Project Schedule. The acquisition, development, and construction of the Project by the Sponsor is currently scheduled to commence promptly following the Closing Date, and is currently scheduled to be substantially completed within twenty-four (24) months after the Closing Date. The Sponsor currently anticipates that commercial production by the Facility shall commence approximately twenty-four (24) months after the Closing Date.

5.3. Termination. In the event the conditions to Closing set forth in Sections 12 and 13 of this Agreement shall have not been satisfied or waived on or before the Termination Date, either the State or the Sponsor may send written notice of termination to the other Party and thereafter the Parties shall have no further obligations pursuant to this Agreement and the Sponsor shall no longer be required to satisfy the Investment Requirement and to achieve and maintain the Position Creation Requirement.

5.4. Preliminary Period. The Preliminary Period is intended to be the period during which the acquisition, development, and construction of the Project shall be completed. The Sponsor shall satisfy the Investment Requirement and shall achieve the Position Creation Requirement not later than the expiration of the Preliminary Period.

5.5. Testing Period. The Testing Period is intended to be the period during which the compliance with the Position Creation Requirement may be evaluated and during which the Repayment Penalties may be imposed. The Sponsor shall maintain the Position Creation Requirement during the Testing Period.

5.6. Other Periods. Except as provided in this Agreement with respect to the Investment Requirement and the Position Creation Requirement, the Sponsor shall comply with the terms and conditions of this Agreement commencing as of the date of this Agreement and continuing until the expiration of the Testing Period. The Sponsor hereby waives any right to extend any time period specified in this Agreement as set forth in A.C.A. § 15-4-3206.

6. Amendment 82 Financing.

6.1. Bonds. Subject to the terms and conditions of this Agreement and the Amendment 82 Requirements, the State shall provide funding from the Amendment 82 Financing to, or for the benefit of, the Sponsor in an aggregate amount up to One Hundred Twenty Million Dollars (\$120,000,000.00). The Amendment 82 Financing shall be funded through issuance of the Bonds in an amount not exceeding One Hundred Twenty-five Million Dollars (\$125,000,000.00) in the aggregate. The Bonds shall be in such denominations and series and upon such terms and conditions as determined by the Authority, in its sole and absolute discretion. The Bonds shall be direct general obligations of the State for the payment of debt service on which the full faith and credit of the State shall be pledged. The Bonds shall be payable from gross general revenues or special revenues appropriated by the General Assembly.

6.2. Grant for Qualifying Site Preparation Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor a cash grant in the amount of Fifty Million Dollars (\$50,000,000.00) for payment or reimbursement of Qualifying Site Preparation Costs.

6.3. Grant for Piling Costs. From the proceeds of the Bonds, the State shall fund to, or for the benefit of, the Sponsor an additional cash grant in an amount up to Twenty Million Dollars (\$20,000,000.00) for reimbursement of Piling Costs. Reimbursement by the State for Piling

Costs shall be: (a) on a matching basis in which the State shall reimburse the Sponsor one-half ($\frac{1}{2}$) of eligible Piling Costs paid by the Sponsor; and (b) the maximum amount of Piling Costs to be reimbursed by the State shall be limited to not more than Twenty Million Dollars (\$20,000,000.00) out of a total of Forty Million Dollars (\$40,000,000.00) or more of Piling Costs.

6.4. Incentive Loan. Subject to the terms and conditions of this Agreement and the Incentive Loan Documents, the Authority shall make the Incentive Loan to the Sponsor as follows:

(a) Amount Funded; Principal Amount. In order to fund the Incentive Loan and in consideration of the Sponsor's promissory note evidencing the Incentive Loan, the Authority will make available from the Bond proceeds the sum of Fifty Million Dollars (\$50,000,000.00) for disbursement to the Sponsor under Section 7 hereof. The promissory note evidencing the Incentive Loan shall be in a principal amount equal to Fifty Million Dollars (\$50,000,000.00).

(b) Incentive Loan Collateral. The proceeds of the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes. The Incentive Loan shall be secured by a first priority, perfected, purchase-money lien and security interest in the Incentive Loan Collateral subject to the terms and conditions of the Inter-Creditor Agreement.

(c) Debt Service. Interest will accrue on the Incentive Loan at the rate payable on the Bonds issued to fund the Incentive Loan, beginning twenty-four (24) months after the Closing Date. The payment of principal and interest due on the Incentive Loan shall be structured as nearly as possible to correspond with debt service payments due on the Bonds issued to fund the Incentive Loan (excepting interest accruing on such Bonds during the first twenty-four (24) months following their date of issuance, which shall be fully borne by the State). The first payment of debt service on the Incentive Loan is projected at this time to be due from the Sponsor on the first day of the thirtieth (30th) month following the Closing Date. A debt service schedule detailing the semiannual debt service payments due on the Incentive Loan (and the principal and interest components thereof) will be attached to the promissory note evidencing the Incentive Loan. In no event shall the total debt service payments due on the Incentive Loan or the net present value of such payments exceed the total debt service payments, or the net present value of such payments, due on the Bonds issued to fund the Incentive Loan. For purposes of determining the net present value of such total debt service payments, the total debt service payments will be discounted at a rate equal to the lesser of the true interest cost on the Bonds issued to fund the Incentive Loan or the rate agreed upon by the Authority and the Sponsor with respect to the Bonds issued to fund the Incentive Loan.

(d) Term. The Incentive Loan shall have a term of twenty (20)

years commencing on the Closing Date.

(e) Prepayment. The Sponsor may prepay the Incentive Loan in whole or in part without penalty at any time beginning twenty-four (24) months after the Closing Date. The portion of any repayment in part that is attributable to principal shall be applied to satisfy principal component(s) of the Bonds issued to fund the Incentive Loan being redeemed in connection with the prepayment and the Authority shall promptly thereafter provide a revised debt service schedule for approval by the Sponsor and attachment to the promissory note. In the event the Sponsor meets the conditions in this Section 6.4(e) and the Sponsor elects to prepay the Incentive Loan in full prior to the expiration of forty-eight (48) months after the Closing Date, the prepayment amount shall be equal to Forty-five Million Dollars (\$45,000,000.00) million less any principal amount of the Incentive Loan previously paid by the Sponsor plus any accrued interest on the Incentive Loan outstanding through the prepayment date. To qualify for the discount of the prepayment amount, both of the following conditions must be met: (1) within four (4) years after the Closing Date the Sponsor shall have obtained Capital Commitments, as audited and verified by the Commission and Authority, of at least Five Hundred Million Dollars (\$500,000,000.00) (in addition to the Investment Requirement) with respect to an expansion of the steel mill operations of the Sponsor at or near the Project Site; and (2) construction of such expansion shall have commenced prior to the date of the receipt of the prepayment by the State.

6.5. Other Costs. An amount up to Five Million Dollars (\$5,000,000.00) may be funded through the Bonds for the purpose of paying reasonable and necessary closing costs and expenses of the State, in the sole and absolute discretion of the Authority, including those that relate to the issuance of the Bonds and including costs and expenses due to those trustees, agents, underwriters, attorneys, advisors, and consultants performing services on behalf of the State in connection with the Project. The Sponsor shall not be responsible for any of such costs and expenses.

6.6. Related Entities. In the event that the Sponsor may elect for any part of the Amendment 82 Financing to be paid to or received by a Related Entity to the Sponsor, the Sponsor shall notify the Commission and the Authority. As a prior condition to the payment or receipt of any part of the Amendment 82 Financing, such Related Entity of the Sponsor shall execute and deliver a joinder to this Agreement in which such Related Entity shall agree to comply with all of the terms and conditions of this Agreement.

7. Disbursement.

7.1. Investment Threshold. Prior to any disbursement of funds by the State with respect to the Grants or the Incentive Loan, the Sponsor shall provide written confirmation to the Commission and the Authority that the Sponsor has achieved the Investment Threshold by investment of a minimum of Two Hundred Fifty Million Dollars

(\$250,000,000.00) in Qualifying Site Preparation Costs, Piling Costs, and Infrastructure Costs. The Commission and the Authority shall have the right to audit and verify the investment of the Investment Threshold before disbursing funds to, or for the benefit of the Sponsor, with such audit and verification to be conducted in a timely manner. After the Investment Threshold shall have been achieved, the Actual Project Capital Expenditures that comprise the Investment Threshold may be eligible for reimbursement through a disbursement from the Grants or the Incentive Loan, as applicable.

7.2. Generally. All funds to be disbursed by the State with respect to the Grants and Incentive Loan shall require the prior approval of the Commission and the Authority. All funds to be disbursed by the State with respect to the Grants and the Incentive Loan shall be disbursed to, or for the benefit of, the Sponsor, for payment or reimbursement of qualified project costs and expenses permitted by the Amendment 82 Requirements with such qualified project costs and expenses to include Qualifying Site Preparation Costs, Infrastructure Costs, and any other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing and approved as eligible by the State. The disbursement of funds with respect to the Incentive Loan shall also be subject to the terms and conditions of the Incentive Loan Documents.

7.3. Procedure. Subject to the terms and conditions of this Agreement, the Grants and the Incentive Loan shall be disbursed by the State to, or for the benefit of, the Sponsor in one (1) or more disbursements. The Sponsor may request a disbursement from the Grants or the Incentive Loan by submitting a Request for Disbursement to the Commission and the Authority. The Request for Disbursement shall specify the requested source of funding from either the Grants or the Incentive Loan. A Request for Disbursement shall include an itemization of each cost and expense for which the Sponsor may request payment or reimbursement. In support of a Request for Disbursement, the Sponsor shall provide a copy of all receipts, invoices, bills, statements, checks, payments, orders, correspondence, notices, and other documents sent, received, or exchanged with respect to each cost and expense identified in the Request for Disbursement. The Sponsor shall provide the State with full access to all documents, records, and other information in the possession of or available to the Sponsor that may relate to each cost and expense identified with respect to a Request for Disbursement. The State may audit and verify all such documents, records, and other information and may take all other reasonable actions to verify that each cost and expense identified with respect to a Request for Disbursement shall have been actually paid or incurred by the Sponsor, the reasonableness of the nature and amount of the cost and expense, and whether the cost and expense may be properly characterized as Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, or other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. Upon completion of the audit and verification by the State of the costs and expenses

identified in a Request for Disbursement, the Authority shall send a Notice of Payment to the Sponsor setting forth the amount approved by the Commission and the Authority to be disbursed by the State with respect to the costs and expenses identified in a Request for Disbursement and the source of funding from either the Grants or the Incentive Loan. Within five (5) business days after the date of a Notice of Payment, the State shall cause the amount set forth in the Notice of Payment to be disbursed to, or for the benefit of, the Sponsor by wire transfer to the account of the Sponsor designated in the Request for Disbursement.

7.4. Eligible Costs and Expenses. A Request for Disbursement may request reimbursement of Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. A Request for Disbursement may include only such costs and expenses that constitute Qualifying Site Preparation Costs, Infrastructure Costs, Piling Costs, and other costs and expenses incidental to the Project that shall be eligible for Amendment 82 Financing. With respect to any cost and expense that shall not constitute Qualifying Site Preparation Costs, Infrastructure Costs, or Piling Costs, the State shall determine whether such other cost and expense shall be incidental to the Project and whether such cost and expense shall be eligible for Amendment 82 Financing. A Request for Disbursement may not include any cost or expense that shall have been included in any prior Request for Disbursement. All Requests for Disbursement must be submitted by the Sponsor to the State no later than twenty-four (24) months after the Closing Date.

8. Training Benefits. The Commission shall assist the Sponsor in recruiting and training employees and independent contractors who shall work at the Facility or on the Project Site. The Commission and the Sponsor shall enter into the Training Agreement regarding the assistance to be provided to the Sponsor. Subject to the terms and conditions of this Agreement and the Training Agreement, the Commission shall fund up to Ten Million Dollars (\$10,000,000.00) by payment or reimbursement of costs and expenses paid or incurred by the Sponsor for training activities and facilities with respect to the employees and independent contractors who shall work at the Facility or on the Project Site. The funds disbursed to, or for the benefit of, the Sponsor for such training activities and facilities shall be in addition to the Amendment 82 Financing described in this Agreement and shall be spread equally over a period of two (2) years based on a schedule of on-the-job training determined by the Sponsor in consultation with the Commission. The assistance to be provided by the Commission pursuant to the Training Agreement shall include the following support services: (a) recruitment advertising for new employees; (b) securing the use of facilities for accepting applications and interviewing new employees; (c) reproduction of training manuals; (d) reimbursement of compensation to instructors for on-the-job training (up to, but not to exceed actual hourly rate

of pay); (e) on-site training facility space; and (f) reimbursement for train-the-trainer expenses, including reasonable expenses of travel. Requests for reimbursement shall provide the Commission, at a minimum, with the information described in paragraphs I(A) and I(B) of the form of Training Agreement.

9. Other Incentive Programs.

9.1. Advantage Arkansas Program. The Sponsor may be eligible for a job creation income tax credit provided pursuant to the Advantage Arkansas Program. The Advantage Arkansas Program provides an income tax credit against a portion of State income tax liabilities based upon a percentage of the annual payroll paid to the new full time permanent employees hired as a result of an approved project. To receive the income tax credit of the Advantage Arkansas Program, the Sponsor must enter into a Financial Incentive Agreement. The tier of the county in which the approved project is located determines the qualifying payroll threshold, as well as the income tax benefit calculation. Counties are segmented into four (4) tiers based on poverty rate, population growth, per capita income, and unemployment rate. Based on the location of the Project Site, the Sponsor may be entitled to an income tax credit up to four percent (4%) of the total taxable wages paid to new full time permanent employees hired after the date of the Financial Incentive Agreement. The annual payroll thresholds of the new employees must be met within twenty-four (24) months following the date the Financial Incentive Agreement is signed by the Commission. Employees must be taxpayers of the State to qualify for the credit. The income tax credit begins in the year in which the new employees are hired and is earned each tax year for a period of five (5) years. Any unused credits can be carried forward for nine (9) years beyond the year in which they were earned. The Sponsor may apply the credit to its State income tax liability, not to exceed fifty percent (50%) of the total income tax liability for a reporting period. The income tax credit provided by the Advantage Arkansas Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.2. Tax Back Program. The Sponsor may be eligible for a refund of state and local sales and use taxes provided pursuant to the Tax Back Program. The Tax Back Program provides for a refund of a portion of state and local sales and use taxes paid on certain purchases of material used in the construction of a building or buildings and on purchases of taxable machinery or equipment to be located in or in connection with such building or buildings. To qualify for the refund provided by the Tax Back Program, the Sponsor must: (a) invest a minimum of One Hundred Thousand Dollars (\$100,000.00); (b) execute the Advantage Arkansas Agreement within the appropriate time as required by applicable law; and (c) submit a completed application accompanied by a local endorsement resolution from the city, county or both where the Project Site is located and which authorizes the refund of its local taxes to the Sponsor. The refund shall not include the portion of the sales tax dedicated to the Educational Adequacy Fund described in A.C.A.

§ 19-5-1227 and the Conservation Tax Fund as described in A.C.A. § 19-6-484. These two (2) exceptions reduce the refund by one percent (1%). Currently, the State sales tax rate is six percent (6%), and therefore, the refund of State taxes shall be based upon five percent (5%) of the eligible taxable purchases. The refund of local taxes shall be based on the sales tax rate for the city and county where the Project Site is located. The refund provided by the Tax Back Program is also conditioned upon the satisfaction of the requirements of the Consolidated Incentive Act.

9.3. Recycling Equipment Tax Credit Program. The Sponsor may be eligible for an income tax credit provided pursuant to the Recycling Equipment Tax Credit Program. The Recycling Equipment Tax Credit Program provides for an income tax credit for thirty percent (30%) of the cost of eligible equipment and installation costs and expenses. Eligibility for the Recycling Equipment Tax Credit Program is determined by the Arkansas Department of Environmental Quality. If the Sponsor otherwise qualifies for the Recycling Equipment Tax Credit it may also qualify under the Recycling Credit Legislation to extend the carry-forward of the income tax credit pursuant to the Recycling Equipment Tax Credit Program from three (3) years to fourteen (14) years for steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.4. Utility Tax. The Sponsor may be eligible for a reduced rate of sales taxes with respect to purchases of electricity and natural gas used directly in the manufacturing process. The Utility Tax Legislation will provide a full exemption of sales taxes associated with the sale of natural gas and electricity for use directly in the manufacturing process of steel mills that newly invest at least Five Hundred Million Dollars (\$500,000,000.00) and create at least three hundred (300) New Full Time Positions paying an annual average wage of at least Seventy Thousand Dollars (\$70,000.00).

9.5. Machinery & Equipment Tax Exemptions. The Sponsor may be eligible for an exemption from state and local sales and use taxes with respect to purchases of machinery and equipment used directly in manufacturing for a new manufacturing facility or to replace existing machinery and equipment for a manufacturing facility. Machinery and equipment required by the State's laws to be purchased for air or water pollution control shall be also exempt.

10. Joint Marketing Agreement. The Commission and the Sponsor shall enter into the Joint Marketing Agreement whereby each shall commit to spend up to One Hundred Fifty Thousand Dollars (\$150,000.00) per calendar year for each of three (3) years beginning no later than twelve (12) months after the Closing Date, to market and advertise steel companies based in the State to out-of-state suppliers, vendors, and customers for the purpose of marketing the State as the right place for out-of-state suppliers, vendors, and customers to locate

their business or to market or consume the products produced by steel companies based in the State. The expenditures by the Commission with respect to the Joint Marketing Agreement shall be in addition to the Amendment 82 Financing described in this Agreement.

11. Consequences of Unsatisfied Obligations.

11.1. Generally. The Sponsor shall pay to the State certain amounts to be determined by the applicable Repayment Calculations set forth in this Section 11 in the event the Sponsor shall fail to: (a) satisfy the Investment Requirement prior to the expiration of the Preliminary Period; (b) achieve the Position Creation Requirement prior to the expiration of the Preliminary Period; and (c) maintain the Position Creation Requirement during the Test Period. The total amount to be paid by the Sponsor pursuant to any or all of the Repayment Calculations shall not exceed the maximum amount of the lesser of: (i) Seventy Million Dollars (\$70,000,000.00) or (ii) the total amount disbursed by the State pursuant to the Grants. Any amounts determined to be due from the Sponsor to the State pursuant to this Section 11 shall be paid by the Sponsor to the State not later than thirty (30) days following the receipt of written notice by the Sponsor from the Commission. In no case shall the Sponsor be entitled to additional funds from the State as a result of the Repayment Calculations.

11.2. Repayment Calculation — Investment Requirement. If, at the expiration of the Preliminary Period, the Sponsor has made or caused to be made Actual Project Capital Expenditures of less than One Billion Dollars (\$1,000,000,000.00), the Sponsor shall pay to the State an amount equal to one-half of one percent (0.50) of the difference between One Billion Dollars (\$1,000,000,000.00) and the Actual Project Capital Expenditures.

11.3. Repayment Calculation — Employment Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has not achieved and maintained the Employment Target, but employs at least fifty-five (55) individuals in Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the total qualified Direct Positions and Independent Direct Positions to five hundred twenty-five (525), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.3 on the first Test Date at the expiration of the Preliminary Period, the Employment Target may be satisfied through a combination of Direct Positions and Independent Direct Positions which are filled on a full-time basis of at least thirty (30) hours per week for a period of four and one-half months (4½) months during the six (6) months prior to the first calculation pursuant to this Section 11.3.

11.4. Repayment Calculation — Compensation Target. If, at the expiration of the Preliminary Period, and continuing through the Test Period, as measured annually on the Test Date, the Sponsor has

employed a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, but has not met the Compensation Target, the Sponsor upon written notice shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and further divided by two (2); (ii) minus the ratio of the average annual compensation of all those Direct Positions and Independent Positions as designated by the Sponsor to Seventy-five Thousand Dollars (\$75,000.00), multiplied by the quotient obtained in (i). With respect to the first calculation pursuant to this Section 11.4 on the first Test Date at the expiration of the Preliminary Period, the average annual compensation shall be calculated by using the amount of compensation paid during months thirty-one (31) through thirty-six (36) after the Closing Date to full-time Direct Positions and Independent Direct Positions designated by the Sponsor and then multiplied by two (2).

11.5. Repayment Calculation — After Preliminary Period. If, at any time after the expiration of the Preliminary Period, as measured annually on the Test Date, the Sponsor shall not maintain a minimum of fifty-five (55) total full-time Direct Positions and Independent Direct Positions, the Sponsor shall pay to the State an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) multiplied by the number of years, beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Sections 11.2, 11.3, and 11.4.

11.6. Tax Incentive Penalties. The repayment obligations described in this Section 11 shall be in addition to any provisions of the State's laws pertaining to repayment, recalculation, or penalties in the event the Sponsor shall receive a benefit or economic incentive, including the Amendment 82 Financing described in this Agreement, for which the Sponsor shall later be deemed to have been ineligible.

11.7. Other. In the event that the Sponsor shall fail to comply with the terms and conditions of this Agreement other than those terms and conditions relating to the Investment Requirement and the Position Creation Requirement, the Sponsor may also be subject to penalties or remedies permitted by applicable law.

12. Conditions of the State. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the State pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

12.1. Negotiation and execution of all documents pertaining to the issuance of the Bonds on terms and conditions satisfactory to the State.

12.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the State.

12.3. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

12.4. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

12.5. Negotiation and execution of the Inter-Creditor Agreement on terms and conditions satisfactory to the State.

12.6. Negotiation and execution of the Escrow Agreement for the Capital Commitments on terms and conditions satisfactory to the State.

12.7. The closing of all transactions in connection with the Capital Commitments.

12.8. The Bonds shall have been sold and delivered by the Authority on terms and conditions satisfactory to the State.

12.9. All of the covenants and obligations that the Sponsor is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

13. Conditions of the Sponsor. In addition to all other conditions set forth in this Agreement and the Amendment 82 Requirements, the obligations of the Sponsor pursuant to this Agreement shall be subject to the satisfaction of following conditions on or before the Closing Date:

13.1. Satisfactory negotiation and execution of all documents pertaining to the issuance of the Bonds.

13.2. Negotiation and execution of the Incentive Loan Documents on terms and conditions satisfactory to the Sponsor.

13.3. Negotiation and execution of the Advantage Arkansas Agreement, the Escrow Agreement with respect to the Capital Commitments, the Financial Incentive Agreement, the Joint Marketing Agreement, the Training Agreement, and all other contracts specifically identified in this Agreement on terms and conditions satisfactory to the Sponsor.

13.4. Satisfactory completion of the actions required by the Governor, the General Assembly, the Commission, the Authority, the Department, and all other officials pursuant to the Amendment 82 Requirements.

13.5. Any special legislation required for any of the economic incentives described in this Agreement, including the Recycling Tax Legislation and Utility Tax Legislation, shall have been approved by the General Assembly and the Governor.

13.6. Approval by the Sponsor of the Capital Commitments and the closing of all transactions in connection with the Capital Commitments.

13.7. Negotiation and execution of an agreement between the Sponsor and Mississippi County, the City of Osceola, Arkansas or another local entity for the acquisition and lease of the Project Site on terms and conditions satisfactory to the Sponsor.

13.8. Issuance of the relevant Governmental Authorities of the State of all required environmental, construction, and operating permits prior to the Closing Date.

13.9. Negotiation and execution of a satisfactory long-term electrical power contract for the Facility on terms and conditions satisfactory to the Sponsor.

13.10. All of the covenants and obligations that the State is required to perform or to comply with pursuant to this Agreement on or prior to the Closing Date shall have been performed and complied with in all material respects.

14. Due on Sale.

14.1. No Assumption. If a Change of Control Event is announced by the Sponsor and the Announced Controlling Party shall not agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party to pay to the State prior to consummation of the Change of Control Event an amount calculated as follows: (i) the total amount disbursed by the State pursuant to the Grants; (ii) minus the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years beginning after the end of the Preliminary Period, the Sponsor has employed at least fifty-five (55) total Direct Positions and Independent Direct Positions; and (iii) minus any amounts previously paid by the Sponsor pursuant to the Repayment Calculations set forth in Section 11 as a result of failing to achieve and maintain the Employment Target or the Compensation Target.

14.2. Assumption Subsequent to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor subsequent to the Investment Requirement having been satisfied and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determine that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party prior to consummation of the Change of Control Event to fund an Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period divided by two (2) with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from such Escrow Account

equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party maintains the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the Change of Control Event and the end of the Preliminary Period, all amounts in the Escrow Account shall be released and returned to the Announced Controlling Party. The rights of the State upon a Change of Control Event will include, among other rights, the proportional right to vote alongside all other Senior Term Lenders on matters related to any Change of Control Event. The Commission and the Authority shall not have the right to seek the establishment of the Escrow Account if a majority of the Senior Term Lenders inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party, commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms and conditions as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event. A majority of the Senior Term Lenders shall be determined by the amounts due by the Sponsor to each such Senior Term Lender inclusive of the State but not including those affiliated with the Sponsor or the Announced Controlling Party immediately prior to the execution of definitive documents related to the Change of Control Event.

14.3. Assumption Prior to Investment Requirement Being Met. If a Change of Control Event is announced by the Sponsor prior to the Investment Requirement having been met and the Announced Controlling Party shall agree in writing to assume all of the rights and obligations of the Sponsor pursuant to this Agreement and all related agreements executed in connection with the Project, but the Commission and the Authority reasonably determines that the Announced Controlling Party is unlikely to achieve and maintain the Employment Target or the Compensation Target, the Sponsor shall, upon written notice by the Commission and the Authority, cause the Announced Controlling Party, prior to consummation of the Change of Control Event, to fund the Escrow Account in an amount calculated as follows: the product of the total amount disbursed by the State pursuant to the Grants divided by fifteen (15) and then multiplied by the number of years remaining until the expiration of the Test Period with such years remaining until the expiration of the Test Period to be no greater than fifteen (15). In any year during the Test Period in which the Announced Controlling Party shall fail to achieve and maintain the Employment Target or the Compensation Target, the Commission and the Authority shall withdraw an amount from the Escrow Account equal to the amount determined pursuant to the applicable Repayment Calculations for that particular year. If the Announced Controlling Party shall achieve and maintain the Employment Target and the Compensation Target for the six (6) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released and returned to the

Announced Controlling Party. If the Announced Controlling Party shall fail to achieve and maintain the Employment Target and the Compensation Target for the three (3) consecutive years following the later of the end of the Preliminary Period and the establishment of the Escrow Account, all amounts in the Escrow Account shall be released to the State and shall become the property of the State and neither the State, the Commission, nor the Authority shall have any obligation to make any of such funds available to the Announced Controlling Party or any other Person. The Commission and the Authority shall have the right to seek the establishment of the Escrow Account whether or not a majority of the Senior Term Lenders commit in writing to permit assumption of their respective debts by the Announced Controlling Party on the same or substantially similar terms as those in existence immediately prior to the execution of definitive documents related to the Change of Control Event.

14.4. Assumption Prior to End of Availability of Economic Incentives. If a Change of Control Event is announced by the Sponsor, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor prior to the announcement of the Change of Control Event shall no longer be available to either the Sponsor or the Announced Controlling Party. If the announced Change of Control Event shall not be consummated and no more than nine (9) months have elapsed since the Change of Control Event was first announced and the Sponsor provides written notice that the announced Change of Control Event shall not be consummated, any economic incentives, including proceeds from the Amendment 82 Financing, set forth in this Agreement that have not been previously made available to the Sponsor shall be reinstated and shall be available to the Sponsor as set forth in this Agreement, to the extent consistent with applicable law.

15. Confidentiality and Non-Disclosure. The Parties recognize that certain information and records provided by the Sponsor to the Commission or the Authority include trade secrets or other information which, if disclosed, would give advantage to competitors of the Sponsor, or include records related to the Sponsor's planning, site location, expansion, operations, product development or marketing (collectively, "Confidential Business Information"). Such records are generally exempt from public disclosure under the terms of the Arkansas Freedom of Information Act, A.C.A. § 25-19-101 et seq. Neither the Parties to this Agreement nor any Related Entity, affiliate, or representative of any Party, shall make any disclosure of Confidential Business Information without the prior written consent of any other Party; provided however, that a Party may make such a disclosure without the consent of any other Party if the disclosure is: (a) compelled by legal, accounting, or regulatory requirements applicable to and beyond the reasonable control of the Party; (b) necessary to proceed with the intentions and agreements contained in this Agreement as they specifically relate to any Related Entity, affiliate, or representative of any Party; (c)

necessary to obtain legislative approval of the undertakings set forth in this Agreement; or (d) required under applicable law binding upon the disclosing Party. The Party making a disclosure described in (c) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party. The Party making a disclosure described in (a) or (d) of this Section 15 shall give prior written notice of the proposed disclosure to the other Party if the disclosing Party can do so and still comply with the requirement or law compelling the disclosure; otherwise the disclosing Party shall give written notice contemporaneously with or as soon as reasonably practicable following the disclosure.

16. Incentives Not Accepted. To the extent that the Sponsor shall not accept for whatever reason any portion of the funds or economic incentives set forth in this Agreement, neither the State, the Commission, nor the Authority shall have any obligation to replace the value of the funds or economic incentives not accepted, inclusive of the value of any matching funds, with other funds or economic incentives.

17. Public Reporting Requirements. The Sponsor acknowledges and agrees to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with the State by providing such documents, records, and other information to the State as may be necessary to comply with the public reporting, monitoring, auditing, and other reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision). The Sponsor shall reasonably cooperate with all audits and verifications by the State, including without limitation the Commission and the Authority, of all accounts related to the construction, operation, and maintenance of the Project. The Sponsor shall maintain and make available all documents, records, and other information pertaining to items contained in the terms and conditions of this Agreement for annual audit by the Chief Fiscal Officer, and upon request, but no more often than annually, by the Office of Economic and Tax Policy or a Person retained by the Office of Economic and Tax Policy. The Sponsor shall comply with all auditing and reporting requirements of any state or federal regulatory agency or other Governmental Authority that may have jurisdiction over the Sponsor. The Sponsor shall cause all Related Entities of Sponsor who receive Amendment 82 Financing to comply with the reporting requirements of the Act set forth in A.C.A. §§ 15-4-3206 (2011 Revision), 15-4-3221 (2011 Revision), and 15-4-3224 (2011 Revision).

18. Reporting of Independent Direct Positions. The Sponsor shall cause each Person that employs or contracts with an individual holding an Independent Direct Position to provide to the State such documents, records, and other information as may be necessary to comply with the audit requirements of the Act, including those set forth in A.C.A. §§ 15-4-3206 (2011 Revision). For the purposes of Sections 4 and 11 of this Agreement no position or job may be counted as an Independent

Direct Position unless the person who employs or contracts the individual holding such position or job fully complies with the State's requests for information necessary to comply with the audit and reporting provisions of the Act.

19. Representations and Warranties. In order to induce the State to enter into this Agreement, the Sponsor hereby represents and warrants to the State as follows:

19.1. Names. The correct legal name of the Sponsor is "Big River Steel, LLC".

19.2. Organization of the Sponsor. The Sponsor is a limited liability company duly organized, validly existing, and in good standing pursuant to the laws of the State of Delaware. The Sponsor is duly licensed and qualified as a foreign limited liability company with the State.

19.3. Authorization. The Sponsor has full power and authority to execute and deliver this Agreement and to perform the obligations of the Sponsor pursuant to this Agreement. The Sponsor has duly authorized the execution, delivery, and performance of this Agreement. This Agreement constitutes the valid and legally binding obligation of the Sponsor enforceable in accordance with its terms and conditions. The undersigned officer of the Sponsor is the lawful agent of the Sponsor with the authority to execute and deliver this Agreement.

19.4. Purpose. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Grants shall be used by the Sponsor solely for purposes of the Qualifying Site Preparation Costs and the Infrastructure Costs. The funds disbursed to, or for the benefit of, the Sponsor pursuant to the Incentive Loan shall be used solely for the engineering, design, procurement, installation, fabrication, and erection of the Incentive Loan Collateral and related purposes.

19.5. Non-contravention. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement shall: (a) violate any applicable law including the Amendment 82 Requirements; (b) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create the right to accelerate, terminate, modify, cancel, or require any notice pursuant to the Capital Commitment Documents and any other material contract or lease to which the Sponsor may be a party or by which the Sponsor may be bound or to which the Incentive Loan Collateral may be subject; or (c) violate or conflict with the articles of organization, the operating agreement, and other governing documents of the Sponsor.

20. General Covenants. In addition to the covenants of the Sponsor set forth elsewhere in this Agreement, the Sponsor covenants and agrees as follows:

20.1. Change of Name. The Sponsor shall not change its legal name unless the Sponsor shall have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its name.

20.2. State of Organization. The Sponsor shall not change the jurisdiction of the organization of the Sponsor unless the Sponsor shall

have provided advance notice to the Commission and the Authority at least ninety (90) days prior to the change of its jurisdiction.

20.3. Eligible Business. The Sponsor shall qualify as an “eligible business” as defined in the Consolidated Incentive Act prior to the receipt of the Amendment 82 Financing.

20.4. Environmental. The Sponsor shall cause the Project to comply with the relevant environmental standards of applicable law. It is also intended that representations shall be made by the Project’s primary technology provider that its technology meets the relevant environmental standards of the World Bank Group.

20.5. Employment Laws. The Sponsor agrees to comply with all relevant and applicable employment laws.

21. General Provisions.

21.1. Governing Law. This Agreement shall be governed by and interpreted pursuant to the laws of the State without regard to principles of conflicts of laws that would require or permit the application of the laws of a state other than the State.

21.2. Interpretation. This Agreement shall be interpreted as follows: (a) as though the Parties shared equally in the negotiation and preparation of this Agreement; (b) gender or lack of gender of any word shall include the masculine, feminine, and neuter; (c) singular shall include plural and plural shall include singular; (d) the words “include” and “including” mean, in addition to any regularly accepted meaning, “without limitation” and “including but not limited to”; (e) references to Sections refer to Sections of this Agreement; (f) subject headings, captions, and titles shall not affect the interpretation of this Agreement; (g) as a solicitation for offers until this Agreement shall have been executed and delivered by all Parties; (h) the definition of any term in this Agreement shall apply to all uses of such term whenever capitalized; and (i) any Exhibits to this Agreement shall be incorporated into this Agreement as though fully set forth word for word in this Agreement.

21.3. Business Day. If any provision of this Agreement shall require the performance of an obligation or the exercise of a right on a date that shall be a legal holiday pursuant to applicable law, a Party may postpone the performance of such obligation or the exercise of such right until the next business day pursuant to applicable law.

21.4. Currency. Any reference to dollars or money in this Agreement shall mean legal tender of the United States of America. Any amount required to be paid by a Party pursuant to this Agreement shall be paid by check or electronic transfer payable to the order of the Party to receive such amount.

21.5. Time for Performance. Time shall be of the essence.

21.6. Brokers. The State shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the Sponsor. The Sponsor shall not be obligated for the payment of any broker, agent, consultant, finder, or other Person engaged by the State.

21.7. Expenses. Except as provided in this Agreement, each Party

shall pay all expenses incurred by such Party with respect to: (a) the negotiation, preparation, execution, delivery, and performance of this Agreement; and (b) the transactions contemplated by this Agreement.

21.8. Force Majeure. A Party shall bear no responsibility or liability for non-performance of obligations under this Agreement caused by, and during the duration of, major events beyond its reasonable control, such as an act of God, emergency, fire, casualty, lockout or strike, unavoidable accident, riot, war, terrorism, financial market disruption, computer virus or similar threat, or other force majeure. A Party affected by such a major event shall send written notice to all Parties of the nature and extent of the major event within sixty (60) days after the occurrence of the major event and again within sixty (60) days following the conclusion of the major event.

21.9. Notice. All notices, demands, requests, and other communications required by this Agreement shall be in writing and shall be delivered to a Party by either: (a) personal delivery; (b) overnight delivery service with delivery costs and expenses prepaid and receipt of delivery requested; (c) certified or registered mail with postage prepaid and return receipt requested; or (d) by electronic mail to the persons then holding the titles below. All notices, demands, requests, and other communications permitted or required by this Agreement shall be delivered to the Parties at the following addresses unless another address shall be designated by a Party by notice pursuant to the provisions of this Section:

If to the State: Office of the Governor
 State Capitol Room 250
 Little Rock, Arkansas 72201

AND

Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72101

AND

Arkansas Department of Finance and
Administration
Office of the Director
1509 West Seventh Street, Suite 401
Little Rock, Arkansas 72203-3278

AND

Arkansas Economic Development Commission
Attn: Executive Director
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the
Commission: Arkansas Economic Development Commission
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101

AND

Arkansas Economic Development Commission
Attn: Bryan Scoggins
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72101
bscoggins@ArkansasEDC.com

If to the Authority: Arkansas Development Finance Authority
Attn: President
900 West Capitol Avenue, Suite 310
Little Rock, Arkansas 72101

If to the Sponsor: Big River Steel, LLC
Attn: Mr. John Correnti
Chairman and Chief Executive Officer
1425 Ohlendorf Road
Osceola, Arkansas 72370

21.10. Amendment. This Agreement may be modified or amended only by a subsequent written agreement executed and delivered by all Parties in accordance with the requirements of the Act. The course of dealing and the course of performance among the Parties shall not modify or amend this Agreement in any respect.

21.11. Waiver. The provisions of this Agreement may be waived only by a subsequent written agreement executed and delivered by all Parties. Any delay or inaction by a Party shall not be construed as a waiver of any of the provisions of this Agreement. A waiver of any

provision of this Agreement: (a) shall not be construed as a waiver of any other provision of this Agreement; (b) shall be applicable only to the specific instance and for the specific period in which the waiver may be given; (c) shall not be construed as a permanent waiver of any provision of this Agreement unless otherwise agreed by all Parties in a subsequent written agreement executed and delivered by all Parties; (d) shall not affect any right or remedy available to a Party; and (e) shall be subject to such terms and conditions as provided in a subsequent written agreement executed and delivered by all Parties.

21.12. Binding Effect. The Parties executed and delivered this Agreement with the intent to be legally bound to its provisions. This Agreement shall inure to the benefit of, shall be binding on, and shall be enforceable by the heirs, successors, and assigns of the Parties.

21.13. Third Party Beneficiary. The Parties do not intend to create any rights pursuant to this Agreement for the benefit of any third party beneficiary except as expressly provided in this Agreement.

21.14. Severability. Each provision of this Agreement shall be severable from all other provisions of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be determined to be invalid or unenforceable by a Governmental Authority in any litigation among the Parties, such provision shall be amended, without further action by the Parties, to the extent necessary to cause such provision to be valid and enforceable.

21.15. Remedies. The remedies provided in this Agreement and the Act shall be cumulative and not exclusive of any remedies otherwise available to the Parties pursuant to applicable law.

21.16. Conflicts. If there shall be an irreconcilable conflict between the provisions of this Agreement and the provisions of any other document with respect to the transactions contemplated by this Agreement including the Formal Proposal and the Letter of Commitment, the provisions of this Agreement shall prevail and the conflict shall be resolved by reference only to the provisions of this Agreement. To the extent there may be an irreconcilable conflict between the Amendment 82 Requirements and the provisions of this Agreement, the Amendment 82 Requirements shall prevail. To the extent there may be an irreconcilable conflict between the requirements of the Consolidated Incentive Act and the provisions of this Agreement, the requirements of the Consolidated Incentive Act shall prevail.

21.17. Entire Agreement. This Agreement contains the entire agreement of the Parties on the subject matters of this Agreement, and any oral or prior written understanding on the subject matters of this Agreement shall not be binding on the Parties. Each Party represents, warrants, and covenants that such Party has not been influenced to enter into this Agreement by any Person and has not relied on any representation, warranty, or covenant of any Person other than as set forth in this Agreement.

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EXECUTED and DELIVERED as of March ____, 2013.

THE STATE OF ARKANSAS

By: Governor, Mike Beebe

By: President Pro Tempore of the Senate,
Michael Lamoureux

By: Speaker of the House of Representatives,
Davy Carter

By: Chief Fiscal Officer and Director of the
Department of Finance and Administration,
Richard Weiss

By: Director of the Arkansas Economic
Development Commission,
Grant Tennille

By: President of the Arkansas Development
Finance Authority, Mac Dodson

THE SPONSOR
BIG RIVER STEEL, LLC

By: Chairman and Chief Executive Officer,
John Correnti

EXHIBIT 1
DEVELOPMENT PLAN

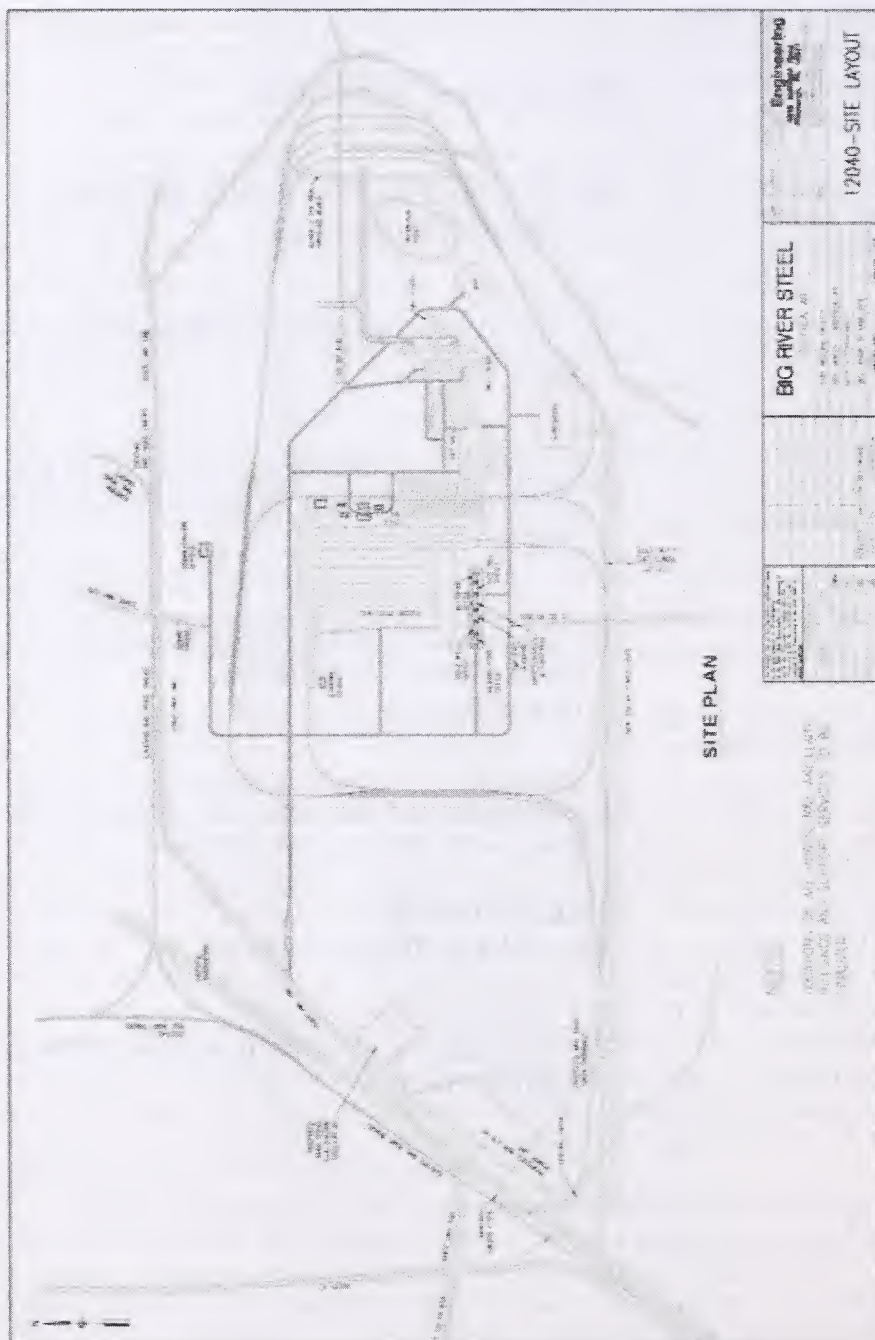


EXHIBIT 2
INCENTIVE LOAN COLLATERAL

Hot Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting	
001	Meltshop
002	Tunnel Furnace Building
003	Hot Mill / Roll Shop Building
Total	\$44,100,000

Cold Mill Complex Buildings Including Siding, Roofing, Roof Monitors, Mandoors, Overhead Doors and Grouting	
Total	\$30,000,000

Total Collateral Value for Incentive Loan = \$74,100,000

EXHIBIT 3
PROJECT SITE

ALL OF SECTION 19, SOUTH OF HWY 198, containing in the aggregate 485 acres, more or less. THIS PORTION OF SECTION 19 IS LESS AND EXCEPT THE W½ OF THE W½ being 155 acres, more or less.

THE S½ and the E½ of the NE¼ OF SECTION 20, containing 383 acres, more or less.

ALL OF SECTION 21, containing 452 acres, more or less. LESS AND EXCEPT LEVEE AND RIVER EROSION, containing 150 acres, more or less.

THE NW¼ OF SECTION 22, LESS AND EXCEPT RIVER EROSION, containing 67 acres, more or less.

THE NE¼ NE¼ OF SECTION 29 WEST OF LEVEE containing 29 acres, more or less; and THE N½ OF SECTION 29 EAST OF LEVEE containing 166 acres, more or less.

THE N½ OF SECTION 30, containing in the aggregate 210 acres, more or less. THIS PORTION OF SECTION 30 IS LESS AND EXCEPT THE W½ OF THE NW¼ containing 80 acres, more or less; AND ALSO LESS AND EXCEPT A PARCEL IN THE SE ¼ SE ¼ being 47 acres, more or less.

ALL OF THE ABOVE SECTIONS ARE IN TOWNSHIP 12 NORTH,

RANGE 11 EAST of the Osceola District of Mississippi County, Arkansas.

Containing in the aggregate 1792 acres, more or less.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that unemployment levels within this state are unacceptably high; that additional incentives are needed to encourage the location and expansion of manufacturing facilities within this state and to provide additional job opportunities for our citizens; that this act is designed to provide the incentives needed to encourage certain manufacturers to locate their facilities within this state thereby creating additional job opportunities for our citizens; that the development and completion of a mini-mill steel manufacturing facility by Big River Steel, LLC is important to the economic health of the state and its citizens; and that this act is immediately necessary because any delay in the effective date of this act will delay completion of the mini-mill steel manufacturing facility by Big River Steel, LLC and the creation of new jobs in the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

19. AMEND. 91. [GENERAL OBLIGATION FOUR-LANE HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS].

SECTION 1. Intent.

The people of the State of Arkansas find that:

(a) The state has an outdated and inadequate system of highway funding that is unable to meet the severe and pressing needs to maintain and improve the state's system of state highways, county roads, and city streets;

(b) Increasing investment in the state highway system, county roads, and city streets will create jobs, aid in economic development, improve quality of life, and provide additional transportation infrastructure, including specifically, a four-lane highway construction plan designed to connect all regions of the state; and

(c) To provide additional funding for the state's four-lane highway system, county roads, and city streets, this amendment levies a temporary sales and use tax and authorizes general obligation highway construction and improvement bonds for the state's four-lane highway system.

SECTION 2. Definitions.

As used in this amendment:

(a) "Bonds" means the State of Arkansas General Obligation Four-Lane Highway Construction and Improvement Bonds as authorized in this amendment;

(b) "Chairman" means the chair of the Arkansas Highway Commission;

(c) "Chief fiscal officer" means the Director of the Department of Finance and Administration;

(d) "Commission" means the State Highway Commission;

(e) "Debt service" means all amounts required for the payment of principal of, interest on, and premium, if any, due with respect to the bonds in any fiscal year, along with all associated costs, including without limitation the fees and costs of paying agents and trustees, and remarketing agent fees;

(f) "Designated tax revenues" means:

(1) Taxes collected under this amendment and apportioned to the Arkansas State Highway and Transportation Department Fund under § 27-70-206 collected over an approximate ten-year period; and

(2) Other fees or taxes that are dedicated to the repayment of the bonds; and

(g) (1) "Four-lane highway improvements" means construction of and improvements to:

(A) Four-lane roadways;

(B) Bridges;

(C) Tunnels;

(D) Engineering;

(E) Rights-of-way; and

(F) Other related capital improvements and facilities appurtenant or pertaining thereto, including costs of rights-of-way acquisition and utility adjustments.

(2) "Four-lane highway improvements" also means the maintenance of four-lane highway improvements constructed with proceeds of the bonds.

SECTION 3. Levy of Temporary Tax.

(a)(1) Except for food and food ingredients, a temporary additional excise tax of one-half percent (0.5%) is levied on all taxable sales of property and services subject to the tax levied by the Arkansas Gross Receipts Act of 1941.

(2) The tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting and payment of all other Arkansas gross receipts taxes.

(b)(1) Except for food and food ingredients, a temporary additional excise tax of one-half percent (0.5%) is levied on all tangible personal property and services subject to the tax levied by the Arkansas Compensating Tax Act of 1949.

(2) The tax shall be collected, reported, and paid in the same

manner and at the same time as is prescribed by law for the collection, reporting and payment of Arkansas compensating taxes.

SECTION 4. Authorization and purpose.

(a) The State Highway Commission may issue State of Arkansas Four-Lane Highway Construction and Improvement General Obligation Bonds ('bonds') in a total principal amount not to exceed one billion, three hundred million dollars (\$1,300,000,000) for the purpose of:

(1) Accelerating four-lane highway improvements in progress or scheduled as of January 1, 2011;

(2) Funding new four-lane highway improvements not in progress or scheduled as of January 1, 2011;

(3) Providing matching funds in connection with federal highway programs for four-lane highway improvements; and

(4) Paying the costs of issuance of the bonds.

(b) The bonds may be issued in one (1) or more series at times, in amounts, and bearing the designations as the commission in consultation with the chief fiscal officer determines.

(c)(1) The bonds shall be general obligations of the State of Arkansas, secured by and payable from the general revenues of the state as set forth in Section 15 of this amendment.

(2) The bonds shall be payable first from the following designated revenues:

(A) Portion of the proceeds of the additional one-half of percent (0.5%) excise tax on gross proceeds or gross receipts; and

(B) Portion of the proceeds of the additional one-half percent (0.5%) compensating excise tax; and

(C) Other revenues designated by the General Assembly for this purpose.

(d)(1) If the amendment is approved, the sales tax and the use tax will be collected over an approximate ten-year period, and so long as the bonds are outstanding.

(2) The sales and use tax shall terminate upon payment in full of the bonds.

(3) If the amendment is not approved, the sales and use taxes shall not be levied and collected.

SECTION 5. Use of proceeds.

(a) There is established on the books of the Treasurer of State, Auditor of State, and the chief fiscal officer of the State a special account within the State Highway and Transportation Department Fund to be designated as the Arkansas Four-Lane Highway Construction and Improvement Bond Account.

(b)(1) On the last day of each month, the Treasurer of State, after making the deductions required from the net special revenues as set out in § 19-5-203(b)(1), shall transfer the revenues derived by the one-half cent (0.5¢) taxes levied under this amendment to the State Highway and Transportation Department Fund, the County Aid Fund and the Municipal Aid Fund in the percentages provided in the Arkansas Highway Revenue Distribution Law, § 27-70-201 and § 27-70-206.

(2) The proceeds of the excise taxes transferred to the State Highway and Transportation Department Fund shall be set aside and transferred to the Arkansas Four-Lane Highway Construction and Improvement Bond Account and used for the purposes provided for in this amendment.

(3) The tax revenues accruing from this amendment shall not be designated as special revenues for deposit to the Arkansas Department of Aeronautics Fund under § 27-115-110.

SECTION 6. The Arkansas Highway Revenue Distribution Law, which defines highway revenues, shall include taxes levied and collected by this amendment.

SECTION 7. Effective Date.

(a) The taxes levied by this amendment shall not become effective until after a majority of the qualified electors of the state voting on the question approve the issuance of Four-Lane Highway Construction and Improvement General Obligation Bonds to be repaid in part by the taxes levied by this amendment and deposited to the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund.

(b) If the tax levies and the issuance of the bonds are approved, the effective date of the temporary taxes levied by this amendment shall be July 1, 2013.

SECTION 8. Termination of tax.

(a) If bonds are issued under this amendment, the temporary taxes levied under this amendment shall be abolished when there are no bonds outstanding to which tax collections are pledged as provided in this amendment.

(b)(1) To provide for the accomplishment of the administrative duties of the chief fiscal officer and to protect the owners of the bonds, the tax shall be abolished on the first day of the calendar month after the expiration of thirty (30) days from the date a written statement identifying the tax and the bonds is signed by the chairman and by the trustee for the bondholders, if a trustee is serving in this capacity, and is filed with the chief fiscal officer.

(2) The written statement shall certify that:

(A) The trustee has or will have sufficient funds set aside to pay the principal of and interest on the bonds when due at maturity or at redemption prior to maturity, and the chairman certifies that the tax is not pledged to any other highway bonds; or

(B) There are no longer any bonds outstanding payable from tax collections.

(c) The Department of Finance and Administration shall continue to collect taxes levied under this section during the time the tax levies were in force but unpaid and remit the tax collections under the Arkansas Highway Revenue Distribution Law.

SECTION 9.

(a) The General Assembly shall provide for the proper administration and enforcement of this amendment by law.

(b) Unless the General Assembly provides another procedure by law, the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq., shall apply to the taxes levied under this amendment and to the reporting, remitting, and enforcement of the tax.

SECTION 10. Procedure for issuing bonds.

Before any series of bonds may be issued:

(1)(A) The commission shall, in consultation with the chief fiscal officer, determine the estimated amount of designated tax revenues to be collected by the state in the remainder of the then current fiscal biennium.

(B) The estimated amount of designated tax revenues shall be reported to the commission and Governor;

(2) The commission shall present a report to the Governor that includes the:

(A) Highway construction and improvements to be financed with the proceeds of such series of bonds;

(B) Estimated cost of the four-lane highway construction and improvements;

(C) Amount of bonds necessary to finance such four-lane highway construction and improvements; and

(D) Estimated amount of debt service required to pay the bonds;

(3) Upon receipt of the report required under subdivision (2) of this section, the Governor shall, if he and the Commission determine that the estimated designated tax revenues and any other revenues appropriated by the General Assembly for repayment of bonds will be sufficient to pay the debt service on the series of bonds, by proclamation authorize the commission to proceed with the issuance of such series of bonds.

(4)(A) After the Governor has issued his or her proclamation with respect to one (1) or more series of bonds, the commission shall adopt a resolution authorizing the issuance of the bonds.

(B) Each such resolution shall contain the terms, covenants, and conditions as are desirable and consistent with this amendment, including without limitation the:

(i) Establishment and maintenance of funds and accounts;

(ii) Deposit and investment of tax collections and of bond proceeds; and

(iii) Rights and obligations of the state, its officers and officials, the commission, and the registered owners of the bonds.

(C)(i) Each such resolution of the commission may provide for the execution and delivery by the commission of a trust indenture or trust indentures, with one (1) or more banks or trust companies located within or outside the state, containing any of the terms, covenants, and conditions provided for in this section and other terms and conditions deemed necessary by the commission.

(ii) The trust indenture or trust indentures shall be binding upon the commission, the state, and their respective officers and officials.

SECTION 11. Terms of bonds.

(a)(1) The bonds shall be issued in series as provided for in this section in amounts sufficient to finance all or part of the costs of four-lane highway construction and improvements provided under Section 10 of this amendment.

(2) Each series shall be designated by the year in which the series was issued, and if more than one (1) series is issued in a particular year then by alphabetical designation.

(b) The bonds of each series shall have the date or dates the commission determines and shall mature, or be subject to mandatory sinking fund redemption, over a period ending not later than ten (10) years after the date of implementation of the temporary sales and use tax.

(c)(1) The bonds of each series shall bear interest at the rate or rates determined by the commission at the sale of the bonds.

(2)(A) The bonds may bear interest at either a fixed or a variable rate.

(B) The interest may be taxable or tax-exempt or may be convertible from one (1) interest rate mode to another.

(C) The interest shall be payable at a time determined by the commission

(d) The bonds:

(1) Shall be issued in the form of bonds registered as to both principal and interest without coupons;

(2) May be in such denominations;

(3) May be made exchangeable for bonds of another form or denomination, bearing the same rate of interest;

(4) May be made payable at places within or outside the state;

(5) May be made subject to redemption prior to maturity in such manner and for such redemption prices; and

(6) May contain other terms and conditions established by the commission.

(e)(1) Each bond shall be executed with the facsimile signatures of the Governor, the chairman, and the Treasurer of the State, and shall have affixed or imprinted on the bond the seal of the State of Arkansas.

(2) Delivery of the executed bonds shall be valid, notwithstanding any change in persons holding the offices occurring after the bonds have been executed.

SECTION 12. Sale of bonds.

(a)(1) The bonds may be sold at a private sale or public sale and at terms as the commission determines to be reasonable and expedient.

(2) The bonds may be sold at a price acceptable to the commission, and the price may include a discount or a premium.

(b)(1) If the bonds are sold at a public sale, the commission shall provide notice of the offering of the bonds in a manner reasonably designed to notify the public finance industry that the offering is being made.

(2) The commission shall set the terms and conditions of bidding, including the basis on which the winning bid will be selected.

(c)(1) The commission may structure the sale of bonds utilizing financing techniques that are recommended by its professional advisors to take advantage of market conditions and obtain the most favorable interest rates consistent with the purposes of this amendment.

(2) The commission may enter into ancillary agreements in connection with the sale of the bonds as necessary and advisable, including without limitation bond purchase agreements, remarketing agreements, letter of credit and reimbursement agreements, and bond insurance agreements.

SECTION 13. Employment of professionals.

The commission may retain professionals it determines are necessary to issue and sell the bonds, including without limitation legal counsel, financial advisors, underwriters, trustees, paying agents, and remarketing agents.

SECTION 14. investment of proceeds.

Prior to expenditure of the proceeds from the issuance of the bonds, the proceeds from the issuance of the bonds shall be held, maintained, and invested by the trustee as provided in a resolution of the commission or as provided in a trust indenture securing the bonds.

SECTION 15. General obligation.

(a)(1) The bonds issued under this amendment shall be direct general obligations of the State of Arkansas for the payment of the debt service on which the full faith and credit of the State of Arkansas is irrevocably pledged as long as the bonds are outstanding.

(2) The bonds shall be payable from:

(A) The Arkansas Four-Lane Highway Construction and Improvement Bond Account; and

(B) General revenues of the state as that term is defined in the Revenue Stabilization Law, § 19-5-101 et seq.

(3) As necessary, the amount of general revenues is pledged to the payment of debt service on the bonds and shall be and remain pledged for these purposes.

(b)(1) This amendment shall constitute a contract between the State of Arkansas and the registered owners of all bonds issued under this amendment which shall never be impaired, and any violation of its terms, whether under purported legislative authority or otherwise, may be enjoined by the Circuit Court of Pulaski County upon the complaint of a bond owner or a taxpayer.

(2) The court shall, in any suit against the commission, the Treasurer of State, or other officer or official of the state prevent a diversion of any funds pledged under this amendment and shall compel the restoration of diverted funds, by injunction or mandamus.

(3) Without limitation as to any other appropriate remedy at law or in equity, a bond owner may, by an appropriate action, including without limitation injunction or mandamus, compel the performance of all covenants and obligations of the state, its officers, and officials.

(c) This amendment shall not create a right of any character with respect to the bonds, and a right of any character with respect to the

bonds shall not arise under the amendment, unless the first series of bonds authorized by this amendment has been sold and delivered.

SECTION 16. Sources of repayment.

(a) Without in any way limiting the general obligation of the state to repay the bonds, the designated tax revenues are pledged to the payment of the debt service on the bonds.

(b)(1) The Treasurer of State shall establish in the State Highway and Transportation Department a special account known as the Arkansas Four-Lane Highway Construction and Improvement Bond Account.

(2) The Treasurer of State shall deposit in the Arkansas Four-Lane Highway Construction and Improvement Bond Account all designated tax revenues.

(3) The commission may pledge to the repayment of the bonds the full faith and credit of the state and may grant a lien upon the funds on deposit in the Arkansas Four-Lane Highway Construction and Improvement Bond Account.

(c)(1) On or before commencement of each fiscal year, the commission in consultation with the chief fiscal officer shall determine the estimated amount required for payment of debt service due on each series of bonds issued and outstanding under this amendment during the fiscal year and shall certify the estimated amount to the Treasurer of State.

(2) The Treasurer of State shall then make transfers from the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to the trustees of each series of bonds, in such amounts and at such times as shall be specified in the indentures, to:

(A) Pay the maturing debt service on each series of bonds issued and outstanding under this amendment; and

(B) Establish and maintain with the trustee for each series of bonds a reserve or reserves for payment of debt service on each series of bonds.

(d) The obligation to make transfers from the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund for the payment of debt service on, and, if applicable, a reserve for, each series of bonds is a first charge against amounts on deposit.

(e) Funds on deposit in the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund that are in excess of the obligations set forth in (d) above may be used to:

(1) Redeem bonds prior to maturity in the manner and in accordance with the provisions pertaining to redemption prior to maturity as set forth in the trust indentures authorizing or securing each series of bonds; or

(2) Fund additional four-lane highway construction and improvements in the manner and in accordance with the provisions set forth in the trust indentures authorizing or securing each series of bonds.

(f) If there are insufficient amounts in the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund to pay the debt service on bonds issued and outstanding under this amendment or to fund any necessary reserves at the required level, the State Treasurer shall transfer additional amounts to the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund from the general revenues of the State.

SECTION 17. Investment of revenues.

(a) Moneys held in the Arkansas Four-Lane Highway Construction and Improvement Bond Account in the State Highway and Transportation Department Fund and any fund in the State Treasury created under this amendment shall be invested by the State Board of Finance to the full extent practicable pending disbursement for the purposes intended.

(b) Notwithstanding any other provision of law, the investments and disbursements shall be in accordance with the terms of the resolution or trust indenture authorizing or securing the series of bonds to which the fund appertains to the extent the terms of the resolution or trust indenture are applicable.

SECTION 18. Refunding bonds.

(a) The commission may issue bonds for the purpose of refunding bonds previously issued under this amendment if the total amount of bonds outstanding after the refunding is completed does not exceed the total amount authorized by this amendment, and the final maturity of such refunding bonds shall not exceed ten (10) years from the date of implementation of the tax.

(b) The refunding bonds shall be general obligations of the State of Arkansas and shall be secured and sold in accordance with the provisions of this amendment.

SECTION 19. Tax Exemption.

(a)(1) All bonds issued under this amendment and interest on the bonds shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes.

(2) Profits from the sale of the bonds shall also be exempt from income taxes.

(b) The bonds shall be eligible to secure deposits of all public funds and shall be legal for investment of municipal, county, bank, fiduciary, insurance company, and trust funds.

SECTION 20. State Aid Street Fund.

(a) Upon the adoption of this amendment, the Department of Finance and Administration shall:

(1) Deposit a total of one cent (1¢) per gallon from revenues distributed under the Arkansas Highway Revenue Distribution Law from the proceeds derived from existing motor fuel taxes and distillate fuel taxes; and

(2) Permanently dedicate the revenues to the State Aid Street

Fund created under § 27-72-407.

(b) The State Aid Street Funds shall aid city streets under the law.
SECTION 21. Powers of the commission.

(a) All powers granted to the commission under this amendment shall be in addition to the powers as already exist under Amendment 42 to the Arkansas Constitution and the laws of the State of Arkansas.

(b) A member of the commission or other state official shall not be liable personally for any reason arising from the issuance of bonds under this amendment unless the person acts with corrupt intent.

SECTION 22. Form of submission to the electors.

The proposition set forth shall be submitted for approval or rejection by the electors in substantially the following form:

“A TEMPORARY ONE-HALF PERCENT (0.5%) SALES AND USE TAX FOR STATE HIGHWAYS AND BRIDGES, COUNTY ROADS, BRIDGES AND OTHER SURFACE TRANSPORTATION, AND CITY STREETS, BRIDGES AND OTHER SURFACE TRANSPORTATION, WITH THE STATE’S PORTION TO SECURE STATE OF ARKANSAS GENERAL OBLIGATION FOUR-LANE HIGHWAY CONSTRUCTION AND IMPROVEMENT BONDS AND PERMANENTLY DEDICATING ONE CENT (1¢) PER GALLON OF THE PROCEEDS DERIVED FROM THE EXISTING MOTOR FUEL AND DISTILLATE FUEL TAXES TO THE STATE AID STREET FUND”

On each ballot there shall be printed the following:

“FOR a proposed constitutional amendment to levy a temporary sales and use tax of one-half percent (0.5%) for state highways and bridges, county roads, bridges and other surface transportation, and city streets, bridges and other surface transportation, with the state’s portion to secure State of Arkansas General Obligation Four-Lane Highway Construction and Improvement Bonds in the total principal amount not to exceed \$1,300,000,000 for the purpose of constructing and improving four-lane highways in the State of Arkansas, prescribing the terms and conditions for the issuance of such bonds which will mature and be paid in full in approximately ten (10) years, which payment in full shall terminate the temporary sales and use tax, describing the sources of repayment of the bonds and permanently dedicating one cent (1¢) per gallon of the proceeds derived from the existing motor fuel and distillate fuel taxes to the State Aid Street Fund.”

“AGAINST a proposed constitutional amendment to levy a temporary sales and use tax of one-half percent (0.5%) for state highways and bridges, county roads, bridges and other surface transportation, and city streets, bridges and other surface transportation, with the state’s portion to secure State of Arkansas General Obligation Four-Lane Highway Construction and Improvement Bonds in the total principal amount not to exceed \$1,300,000,000 for the purpose of constructing and improving four-lane highways in the State of Arkansas, prescribing the terms and conditions for the issuance of such bonds which will mature and be paid in full in approximately ten (10) years, which payment in full shall terminate the temporary sales and use tax,

describing the sources of repayment of the bonds and permanently dedicating one cent (1¢) per gallon of the proceeds derived from the existing motor fuel and distillate fuel taxes to the State Aid Street Fund."

